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Senate

The Senate met at 10 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The Senate will be led in prayer by our guest Chaplain, CPT Leroy Gilbert, Chaplain of the U.S. Coast Guard.

PRAYER

Let us pray.

Eternal God, before the United States Senate begins its deliberation, we pause to give You thanks and invoke Your blessings and presence upon the Senators, their staffs, and all those who work in the Senate, as they transact the business of our Nation.

Lord, we are thankful for our system of government where opinions and divergent views are discussed and analyzed to form synergistic policies that are best for our country.

Dear God, may the words of the psalmist, ''blessed is the nation whose God is the Lord'' (Psalm 33:12), remind us that America has a divine calling to be a ''nation under God.'' May we never forget the foundation upon which this Nation was built, sustained, and blessed, because Your word gives us wisdom to know that ''all the nations that forget God return to the grave.''—Psalm 9:17. We come before You today, dear God, as a nation that has not forgotten its allegiance and motto, ''In God We Trust.'' May every decision made in the Senate bring honor to God and make of us a stronger, better, and safer Nation.

Lord, this Nation is faced with new and unexpected challenges that jeopardize the American way of life, our safety, and liberty. Many have said that after September 11, America will never be the same. If this great Nation has to change, then Lord, mold America and make it even greater. Change us to bring out the best in us for the good of humanity. Bless the Senators with spiritual wisdom and insight to make good decisions to keep America united, strong, efficient, and equal to her tasks.

As we resolve to stand united as a country, dear Lord, we pray the prayer that is written in the hearts of every American: ''God bless America, land that I love, stand beside her and guide her, through the night with the light from above. From the mountain to the prairies, to the ocean white with foam. God bless America our home sweet home.'' In Thy name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HERB KOHL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 5, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning, after a brief period of morning business, at 10:15 a.m. the Senate will proceed to executive session to consider the nomination of Philip Martinez to be a United States district judge. Debate on the nomination is limited to 15 minutes equally divided. At 10:30 a.m., the Senate will vote on the confirmation of this nomination.

Following that vote, the Senate will resume debate on the economic recovery stimulus package. Other votes are expected today with respect to that bill. As a reminder to Members, cloture has been filed on the Daschle and others substitute amendment. All first-degree amendments must be filed by 12:30 p.m. today. In addition, the Senate will recess at 12:30 p.m. for the weekly party conferences.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Chair recognizes the Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the next 10 minutes be equally divided between the minority and majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask the Chair to inform me when I have used the 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

THE BUDGET

Mr. REID. Mr. President, I think it is important to note, with the President having submitted to us his budget, that we have had a $5 trillion surplus disappear in the last 8 months.

Earlier this month, the Congressional Budget Office confirmed that since passage of the tax cut in May, the surplus projected for the period of 2002 to 2011 declined by $4 trillion. The President's new tax-and-spend proposals would consume another $1.3 trillion or more over this period.

I acknowledge that some of this is as a result of the war being conducted, but that is just some of it. As all political scientists and economists have reported in the last few months, the majority of the problem is other economic problems that have developed since this administration took office. It is clear that the Republican fiscal management forces a $1.5 trillion raid of the Social Security trust funds. There is also a raid on the Medicare trust funds of some $300 billion.

So I think we must acknowledge we have some serious problems that are going to have to be talked about in the next month or so as we get ready to do a budget for this Congress.

We have what should be called deceptive bookkeeping. We have broken the bipartisan commitment to save Social Security trust fund surpluses. The administration has submitted to us an unbalanced budget. Clearly it is unbalanced. And they have used the Social Security surpluses to mask the unprecedented fiscal reversal seen in the last 8 months and to pay for exploding tax cuts that primarily benefit a wealthy few while jeopardizing retirement security for all Americans.

In addition to this deceptive accounting practice, the administration's budget breaks with a decade-long tradition by only providing details for the next 5 years, even as the administration offers new tax-and-spend proposals with enormous costs that are not felt until later years. The reason they are not doing the 10-year forecast is that the deficits explode in those outyears. This gimmick hides the full budgetary impact and irresponsibility of the administration's fiscal proposals.

The budget also resorts to other—for lack of a better description—gimmicks. Examples include unrealistic restraints on future nondefense discretionary spending, unspecified future Medicare cuts, and proposing budget cuts that have been repeatedly rejected.

Mr. President, I reserve the remainder of the majority's time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to make some comments in relation to the remarks the Senator from Nevada just made—not in disagreement with anything he said, but to supplement them and to put them in proper perspective.

In regard to tax cuts and the war on terrorism and their impact on the deficit, even after the tax cuts of last year, we are still going to have a level of taxation that is as high as we had in World War II. The war on terrorism is taking our resources because, obviously, we have to put every resource we can into winning the war or it might not be won. And we are still going to have a level of taxation that was similar to the times of other wars. The benchmark we use is World War II, when taxes were at about 20.6 percent of gross national product.

I ought to correct myself. At the end of 10 years, we would probably still have taxes a bit less than they were in World War II. But right now, they are at that level, even considering the tax cuts we passed.

The war on terrorism has been one of the reasons we are in deficit. Also, the tax cuts are a reason there will be deficits. There are deficits because of the recession we are in right now, most of which was caused by the war acts of September 11, but also remember that the downturn in the economy, as far as manufacturing is concerned, started 19 months ago, in March of the last year of President Clinton's administration. Also remember that 50 percent of the loss of the Nasdaq took place in the last year of the Clinton administration. As far as the economy is concerned, the downturn started before President Bush ever took office, before we ever knew that the dastardly acts which occurred on September 11 would ever happen to us.

I want to comment on a fact that is true, that this does affect Social Security. In a unified budget, Social Security is considered part of the deficit or part of the surplus, but it is wrong to refer to a situation for Social Security different now than a year ago when we anticipated a $5.8 trillion surplus.

This is a historical fact about Social Security that has never changed since 1936: Whether we have a unified budget, which we have had since 1967 when President Johnson instituted it, or whether we have separate pots of money—some for Social Security, some for Medicare, some for disability, some for highways, some for airports—our different trust funds, the way Social Security has been accounted for has not changed since 1936. It is this simple: Since 1936, the Social Security payroll money has been paid into a trust fund. That trust fund has had some sort of a surplus since 1936 except for the years 1982 and 1983. My colleagues will remember, at that particular time when we did not have a surplus, we borrowed money from Medicare to keep Social Security checks going until we bailed it out.

Since 1936, Social Security moneys have always been handled the same way. They have been put in the Social Security trust fund and the surplus has been invested in non-marketable Government securities. That has not changed since 1936, whether we have had unified accounting or whatever the situation has been.

I yield the floor.

Mr. THOMAS. Mr. President, has the time for morning business expired?

The ACTING PRESIDENT pro tempore. Under morning business, the time for the minority has expired.

Mr. THOMAS. I thank the Chair.

Mrs. HUTCHISON. Mr. President, is it in order now to talk about Judge Phil Martinez?

EXECUTIVE SESSION

NOMINATION OF PHILIP R. MARTINEZ TO BE UNITED STATES DISTRICT JUDGE

The ACTING PRESIDENT pro tempore. The Senate will now proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Philip R. Martinez, of Texas, to be United States District Judge for the Western District of Texas.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 15 minutes evenly divided between the chairman and ranking member of the Judiciary Committee.

Who yields time?

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am sure the distinguished chairman of the committee will be here shortly. I am very pleased that I am the first person to speak on behalf of Judge Phil Martinez to be a United States District Judge for the Western District of Texas.

Of all the courts in the country that are desperate for judges, those on the United States-Mexico border have the most critical need. According to statistics from 2000, the Western District of Texas handles the most criminal cases in the country, 4,434 per year, while the Southern District of Texas, for which Randy Crane awaits confirmation, has the third highest level after California's Southern District.

Currently, the Western District of Texas is facing a criminal caseload of 1,983 pending cases and 2,758 defendants waiting for trial because we do not have these judgeships filled.

In El Paso, 884 cases are pending overall, more than any other region in the district. Each day, more cases are added, overwhelming an already overburdened Western District. Relief is needed.

Our war against terrorism is heating up as well as our war on drugs. Therefore, it is more crucial that we have highly qualified judges and law enforcement officials in charge of our justice system along the United States-Mexico border. This is a decisive time for our Nation and our borders.

Senator DIANNE FEINSTEIN and I have introduced a bill to expand the number of Federal courts along the border. While I encourage Senators to support

that bill, I also urge my colleagues to expedite the confirmation of border prosecutors and other judges such as Judge Martinez and Randy Crane.

At the same time, certainly we must be very careful with the selection of U.S. district judges because, as we all know, they have lifetime appointments. That is why I am very pleased to recommend Judge Martinez.

Judge Martinez has presided over a State district court in El Paso since 1991. Previously, he was a judge of a county court at law, having been elected by the people of El Paso. He has also been a practicing lawyer with the firm of Kemp, Smith, an excellent firm in El Paso. He has more than 10 years of experience at the trial court level, presiding over felony, juvenile, and civil cases. In 1979, Judge Martinez graduated from the University of Texas-El Paso with highest honors, receiving his law degree in 1982 from Harvard University.

In addition, he has been a director of the El Paso Legal Assistance Society, the El Paso Holocaust Museum, the El Paso Cancer Treatment Center, and the Hispanic Leadership Institute. He was named the 1991–1992 El Paso Young Lawyers Association's ''Outstanding Young Lawyer'' after winning its 1990 Outstanding Achievement Award.

Judge Martinez is known in El Paso as a brilliant thinker and an effective and hard worker. He is known to make fair and thoughtful judgment based on principle. I cannot think of anyone to better fill the pending judicial vacancy in El Paso at a pivotal time for this court.

I am very pleased to recommend to my colleagues Judge Phil Martinez to be a United States district judge for the Western District in El Paso.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I join in the remarks of the distinguished Senator from Texas, and I rise also to express my enthusiastic support for Philip R. Martinez who has been nominated to be a U.S. District Court judge for the Western District of Texas.

Judge Martinez is an extremely well-qualified nominee who has distinguished himself with hard work, and he has a fine intellect. He will do great service for the citizens of our country.

Judge Martinez graduated from Harvard Law School in 1982 and thereafter developed a commercial litigation practice involving antitrust, securities fraud, deceptive trade practices, contract, and, of course, banking issues. He was elected to serve as a judge in El Paso County Court of Law No. 1 for a 4-year term beginning in January 1991, and he resigned this position in October 1991 to accept appointment by the Governor to the 327th Judicial District Court. He was subsequently elected to this position for a 2-year term beginning in January 1993 and reelected for consecutive terms thereafter. Clearly, he has the experience and temperament required for this position.

While I am speaking about Judge Martinez's qualifications, I would be remiss not to make an observation or two about how judge Martinez's nomination fits into the bigger picture of how the Senate is treating judicial nominees this year. As I mentioned 10 days ago, I think we started off the session with appropriate diligence. Chairman LEAHY scheduled a hearing the first week we were in session on one circuit court nominee and five district court nominees. That same week we voted on two district court nominees that had been held over from the end of the last session.

Yesterday we had a vote on Callie V. Granade, and after today there will be no more holdovers from last year. So I commend the chairman and the Democratic leader for getting off to a good start.

Judge Martinez's nomination also provides a useful example of how, contrary to some unsupported insinuations, the White House has worked with us, consulted appropriately, and reached across the aisle to find good bipartisan nominees. Judge Martinez, who belongs to the El Paso County Democratic Party, received strong support from both of his home State Senators. He is a highly qualified Hispanic of Mexican descent who will add an important point of view to the bench.

I sincerely hope that our record so far this year is not a false start. The Judiciary Committee in the Senate should continue to step up the pace of hearings and votes on judicial nominees. No one can dispute that we have plenty of work to do.

Taking account of today's vote, there are 98 vacancies on the Federal judiciary. We have received 24 new nominations already this year. Added to the 34 nominees after today who saw no committee action last session, we will now have a total of 59 nominees pending in the Senate. I am optimistic that we will confirm all of these and then some. Our yardstick for 2002, President Bush's second year in office, is 1994, the second year of President Clinton's first term. That year the Senate confirmed 100 judicial nominees. I am confident the Republicans and Democrats can work together to achieve and perhaps even hopefully exceed 100 confirmations in 2002.

So I look forward to working together with Chairman LEAHY and my colleagues on both sides of the aisle and on both sides of the committee to accomplish this goal. I appreciate the work of my colleagues on the other side in doing this work, because the Federal judiciary is in a crisis and we have to do something about it. The best we can do is take these nominees up and vote on them and hopefully get them confirmed so they can get on the bench and help us during this time of crisis where we do have an awful lot of pressure on the Federal judiciary.

I appreciate, Mr. President, that you are a member of Judiciary Committee, and I just want to remark on your fine work on the committee through the years.

With that, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask we move forward with the vote.

The ACTING PRESIDENT pro tempore. All time having expired, the question is, Will the Senate advise and consent to the nomination of Philip R. Martinez, to be a U.S. District Judge for the Western District of Texas? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. THOMPSON), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Mississippi (Mr. LOTT), and the Senator from Mississippi (Mr. COCHRAN) are necessarily absent.

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 12 Ex.]

YEAS—93

Akaka	Domenici	Lieberman
Allard	Dorgan	Lincoln
Allen	Durbin	Lugar
Baucus	Edwards	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham	Reed
Brownback	Gramm	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carnahan	Helms	Sessions
Carper	Hollings	Shelby
Chafee	Hutchinson	Smith (NH)
Cleland	Hutchison	Smith (OR)
Clinton	Inhofe	Snowe
Collins	Inouye	Stabenow
Conrad	Jeffords	Stevens
Corzine	Johnson	Thomas
Craig	Kennedy	Thurmond
Crapo	Kohl	Torricelli
Daschle	Kyl	Voinovich
Dayton	Landrieu	Warner
DeWine	Leahy	Wellstone
Dodd	Levin	Wyden

NOT VOTING—7

Cochran	McCain	Thompson
Kerry	Miller	
Lott	Specter	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to speak in morning business for about 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF THE ENERGY BILL

Mr. MURKOWSKI. Mr. President, as ranking member of the Energy and Natural Resources Committee, I bring to the attention of my colleagues a situation which I think bears some light.

We have a unique set of circumstances surrounding the manner in which the energy bill is likely to come up before the Senate. I understand that unofficially a date has been set for February 11.

What we have before us is a bill that has been proposed by the majority leader with the assistance of the chairman of the committee, Senator BINGAMAN. The problem with the process is that bill has not been referred to the committee of jurisdiction; that is, the Energy and Natural Resources Committee.

The question is, Why in the normal course of events would a bill under the jurisdiction of the committee not be referred to that committee? To suggest that there is an effort to obstruct the process by giving Members input on the bill through the normal process of amendments is a travesty of the process associated with the traditions of the Senate.

Let me outline where the inconsistencies are.

The Commerce Committee is holding markups on aspects of the energy bill concerning CAFE standards, as they should. Senator HOLLINGS, chairman of that committee, insisted that prior to any developed input on an energy bill CAFE standards be addressed in the committee of jurisdiction; namely, Commerce. I have no objection to that. That is quite appropriate. But it brings me back to the reality that the committee of jurisdiction on the underlying bill has not been given the opportunity. In fact, the majority leader has indicated to the chairman of the Energy Committee that the matter not be taken up before the Energy Committee. One can only wonder why.

Obviously, there are portions of the energy bill with which the majority leader disagrees. I can understand that. But to circumvent the committee process is what I find unacceptable.

Let me give you another example of an inconsistency associated with the energy bill; that is, certain tax incentives that are proposed to expand our energy production, particularly in the area of renewables and new technology.

The Finance Committee, which Senator BAUCUS chairs, is in the process of holding markups, in detail, on portions of energy-related tax matters. So here we have two committees, neither of which have the underlying jurisdiction associated with the energy bill, and their chairmen are proceeding with hearings on their portions of the energy bill; namely, those associated with tax provisions in the Finance Committee and those associated with CAFE standards in the Commerce Committee.

So I would ask the majority leader why he refuses to allow the committee of jurisdiction to hold markups to encourage the participation of members of the committee to review, if you will, or have any input in the bill that is before the Senate as submitted by the majority leader.

This bill has had no referrals to the Energy Committee. It has had absolutely no input from the minority side—Republican members—of that committee. I fail to understand the rationale of the majority leader in refusing to allow the committee of jurisdiction to hold a markup. Perhaps there is a concern the majority leader has relative to how any votes would go outside of the parameters of the legislation which he and Senator BINGAMAN have introduced.

I think it is also a reflection on myself, as the ranking member, and Senator BINGAMAN, as the chairman of the committee, to have our committee circumvented by the dictate of the majority leader. Yet at the same time the majority leader, I assume, is knowledgeable and allows the Committee of Commerce and the Committee of Finance to address their portions of legislation that would be included in the underlying bill.

I bring this matter to the attention of other Members because I think it suggests that clearly the majority leader is attempting to obstruct the legislative process. This bill belongs in the Energy Committee. The Energy Committee has every right to proceed to discuss and consider aspects of this very important legislation. After all, this is one of the President's underlying priorities, along with trade legislation and stimulus. And now that the majority leader has given us an opportunity to have a date to take up energy—namely, the date of February 11—we find ourselves in the position where we have had absolutely no input in this legislation.

We have had a bill in since over a year ago, a comprehensive energy bill. We can look forward to the debate and proceed with amendments to the majority leader's bill. We can consider substitutions. But I want my colleagues to know that the committee of jurisdiction has been circumvented, with no reasonable explanation. Yet the other committees have been allowed to proceed.

I do not know whether to pursue this further, in the sense of asking my colleagues, collectively, if this is the way they believe the Senate should be run or whether we should proceed with a sense of the Senate relative to one committee, for all practical purposes, ostracized by the majority leader by not allowing the committee of jurisdiction to take up this matter. But I communicate to my colleagues that I believe this is a grave injustice. It is a reflection on myself and it is a reflection on the committee chairman, inasmuch as our responsibility has been circumvented. The majority leader has simply decided, without the input of the committee of jurisdiction, to proceed with this legislation coming up on the floor.

I encourage my colleagues to reflect on what is happening. I think it is a retreat from tradition. I find it very objectionable, and I cannot understand why the majority leader would obstruct the process associated with the responsibility of a committee of jurisdiction.

Mr. President, I am going to have more to say about this matter as time goes on, but I do appreciate the opportunity, in morning business, to bring this matter to the attention of my colleagues.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Will the Senator withhold for a unanimous consent request?

Mr. KYL. Certainly.

The PRESIDING OFFICER. The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Mr. President, I have been speaking at some length this morning with Senator NICKLES. We also spent some time with Senator GRASSLEY and the majority leader. It would be in everyone's interest for the next hour to continue with discussions off the floor dealing with the stimulus package and also with the agriculture bill, which we hope can be brought up in the near future. Those discussions are ongoing.

I think the discussions have been conducted in good faith. We have spent a lot of time on this economic stimulus

bill, and not being in the Chamber debating and offering amendments I do not think is going to take away from our ability to do the bill or not do the bill. We already have pending—I do not know the exact number—probably 20 amendments we have not disposed of.

Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each, until 12:30 p.m. when we recess for our party conferences.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, at this time, I tell my friend and colleague, I will not object because I have a great deal of respect for him. We are ready to proceed with a lot of amendments on the stimulus bill. My colleague from Arizona has an amendment to make the estate tax elimination permanent. As people know, it is effective for 1 year and goes off the books; it sunsets. It should be made permanent. We have other amendments dealing with net offset carryback for 5 years. We would like to have a vote on that amendment. We have amendments that we believe will help stimulate the economy. We would like to have votes on them.

I guess we can go into a period for morning business, have the caucuses, and people can strategize. Democrats and Republicans do have several amendments pending. Frankly, a lot of us would like to vote on those amendments to improve the package the majority leader introduced, which we believe comes up a little short.

I am not going to object to his request for a period for morning business. My understanding is we can debate the stimulus package through that period. But I hope we will have a chance for Democrats and Republicans to offer their amendments later today and tomorrow. So I mention to my colleague, who is my very good friend, that we want to have some votes to improve this package today, but I shall not object to his request.

Mr. KYL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I have a question for the Senator from Nevada. We are going back on the bill immediately after our respective caucuses; is that correct?

Mr. REID. That is the regular order.

Mr. KYL. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona.

REPEAL OF THE DEATH TAX

Mr. KYL. Mr. President, given the fact we are in morning business, I wish to speak to the question of the repeal of the death tax to which the Senator from Oklahoma just referred. As my colleagues will remember, of course, the repeal of the death tax was part of the tax package that was passed earlier in the year, but because of the unique procedures of the Senate and the rules under which we operate, we could only look to a 10-year period, as a result of which, perversely, we phase down the death tax and end up repealing it in the ninth year, so it is only effective for 1 year before the whole thing sunsets and we go right back to the current situation with respect to the application of the death tax.

I do not think most Americans realize that is what has happened, but people who have to plan for their estates do realize it has happened. This is why a permanent repeal of the death tax now would be so helpful as a stimulus to the economy because all of the estate tax planning, the insurance, and all the other activities people have to do to provide against the possibility of paying the death tax must continue, as it has in the last many years, with the uncertainty of knowing whether or not, if ever, it is going to be permanently repealed and the expenses of all that have to continue to be incurred, expenses that could be put into investments so we could create jobs for our economy, precisely what the President has talked about doing with his stimulus package.

It is time for us to complete the job we began and see to it that the repeal of the death tax is, in fact, permanent and, therefore, meaningful.

Let me note some of the uncertainty that the lack of total repeal causes our family businesses, our farms, and individuals.

As I said, the business owners are going to continue to have to do the estate planning that is costly, cumbersome, and time consuming. If we repeal permanently the death tax, then these resources can be reinvested directly into these businesses, thus creating new job opportunities and providing a much needed boost to local economies.

In June 2001, a bipartisan majority of Congress did, in fact, act responsibly and provided this repeal of the death tax, much needed relief to our American families, with that historic tax package. But if we do not finish the job, we are going to be held in limbo with respect to the death tax because it comes right back into play after the end of the 10-year period.

The amendment I have offered will not be voted on until perhaps this afternoon. It will repeal the death tax forever so that our children and grandchildren will not have to worry about it or plan to have to pay for it.

Actually, last year's tax legislation has had the perverse result that more planning is necessary to deal with the death tax than currently is the case. Accountants, lawyers, and insurance companies are having a field day, frankly, with the uncertainty that is encapsulated in the current state of the death tax legislation.

More planning is needed now because nobody knows for sure if and when it will ever be fully repealed.

The sunset provision adds to the complexity of future death tax planning, increasing wasteful costs that are an unproductive drag on our economy. Until permanent repeal is certain, family businesses, farms, and ranches must continue to pay the high cost of life insurance policies, death tax planners, and tax attorneys. These expenses total more than $12 billion a year according to CONSAD Research Corporation in a study, ''The Federal Estate Tax: An Analysis of Three Prominent Issues.'' That is money that could be saved, could be reinvested in these businesses to create the kinds of job opportunities the President is talking about in urging us to move on with an economic stimulus and job creation package.

Clearly, burying the death tax will enable family businesses, farms, and ranches to begin investing those billions and start providing more stimulus. A more efficient utilization of these resources will result in an immediate stimulus for the economy. More workers will be hired, more capital assets purchased, and more productive goods produced if we eliminate the confusion over the death tax's repeal.

I think we all understand why we repealed the death tax in the first instance. In addition to the fact that a huge amount of money is spent on estate tax planning, studies indicate we spend about the same amount each year on the estate tax planning as is paid in estate taxes altogether. So it is really a double taxation. We are paying an amount of money to deal with the eventuality of paying an estate tax, and that is paid by a lot of people who do not end up paying the tax but end up having to pay the expenses of dealing with the existence of a death tax, and then an equal amount of money is spent in the estate tax itself.

In 2009, families, frankly, who are grieving their lost ones will be faced with a potentially high 45-percent death tax rate. Fortunately, they are going to be able to utilize a $3.5 million death tax exemption which was enacted into law last year, but in 2010 families grieving for lost ones will avoid the death tax entirely. They will only have a total of $5.6 million of stepped-up basis, but that will effectively exempt them from all future capital gains tax, a tax in any event of which they would control the timing.

Then in 2011, families grieving their lost ones will feel the wrath of a resurrected death tax returned to its 2001 rate potency. Rates will be as high as 60 percent with a paltry $675,000 death tax exemption. That is the way our repeal, at midpoint of last year, worked. So it is a very unfair and arbitrary treatment for the death of family members, as well as, as I said before, creating perverse economic incentives.

One can only imagine the extremes to which a family will go to keep fatally ill family members alive in 2009. Nobody wants to predict or argue for anyone to die in any particular year, and that is exactly the perverse nature of the code that we have created now. Unless one dies in the year 2010, they have a big problem. And for heaven's sake, do not wait to die until the year 2011. Now what kind of tax policy is that, where we say if one dies in the year 2010 they get full benefits of repeal but if they hang on to life and die a year later they are right back to where they were a year ago with a 60-percent tax rate and an exemption that does not cover most of the family farmers and businesses that we are talking about? That is horrible moral policy. It is horrible economic policy. It cannot be the policy of the U.S. Government and yet that is exactly what our repeal last year resulted in, the reinstitution of the tax in the year 2010. It is an outrage that our Tax Code would incorporate such arbitrary and immoral incentives.

Of course that is not what we intended when we repealed the tax. It is not what we intended when a bipartisan majority voted on that repeal and passed it. We really wanted it to be forever, but again it was the rules of the Senate that limited us to a 10-year program. So the best solution would be to finish the job and permanently repeal the death tax effective January 1, 2002. By making the tax repeal permanent in 2010, Congress can keep the promise it made last year. I think this is the only moral way we can respond to this very immoral tax.

I will have more to say when we actually debate the amendment, but I close by asking my colleagues to allow us to present this amendment and have an up-or-down vote on it without playing parliamentary games. It is possible that somebody could second degree this amendment. We could play the game by second degreeing it. We could second degree somebody else's amendment with this amendment. We can do all of those things, but I think the American people would like for us not to be playing games.

When I go home, that is what I hear all the time: Why do you guys go back to Washington and play all of these, as they say, partisan games?

The repeal of the death tax and the passage of the tax bill was a successful bipartisan effort. So I think it is important the majority of us who approved that tax package, including the death tax provisions, be given an opportunity to vote up-or-down on this amendment, which finishes the job we started, and enable us to vote to repeal the death tax permanently. If we cannot get that kind of a vote, then all we are doing is hiding from the American people our views with respect to this issue and allow a lot of people to say, oh, sure, yes, I voted for repealing the death tax knowing full well that it was not an effective appeal because it only existed for 1 year.

One better not wait to die the following year if they want to get the advantage of what we did. That is a perverse policy. So I urge my colleagues to allow this vote, up or down, on the death tax amendment. We will be bringing it up this afternoon.

I am looking forward to a spirited debate on it. At the conclusion of that debate, we need to stand up for what is right and true and vote yes or no. If my colleagues do not want to make it permanent, then stand up and say so and let everybody know exactly where they stand.

I think the majority of us are going to want to finish the job we started, make this tax cut permanent, allow the people who otherwise would have to spend $12 billion a year or more on estate planning to put that money into more productive enterprises, to create jobs and help us get out of the economic doldrums our country is in today.

It is good policy for the economy but, more importantly, it is good policy for small businesses, farms, and the American people.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Is there a time limit on morning business?

The PRESIDING OFFICER. Up to 10 minutes.

Mr. GRASSLEY. I ask unanimous consent to have 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BENEFITS OF THE 2001 TAX RELIEF BILL

Mr. GRASSLEY. Mr. President, I refer to an article on page 6 of the Washington Post this morning where there is a quote from colleagues in this body and in the other body about the President's budget. I refer to this comment from the ranking Democrat on the House Budget Committee, Congressman SPRATT:

> When it comes to waging a war on terrorism, the President has our total support, but national security and homeland security need not come at the expense of Social Security.

Philosophically, that is a good argument. It is an accurate argument for us to be using, but the inference is that with the President's new budget there is some sort of a new game in town, that because we do not have a general fund surplus, because we have to spend more money because of the war on terrorism, as well as the domestic aspect of the war on terrorism, we are going to take Social Security money to finance that because there is otherwise a debt. The implication is this is some new policy.

The point I make is that this kind of talk is misleading because seniors become frightened that they might not receive their Social Security payments. Conservatives may feel as if there is not any fiscal discipline in Washington. Compared to the last 4 years, we have paid down on the national debt in the last 4 years on a relative basis. But conservatives might be concerned that there is no concern about fiscal discipline when it comes to Social Security. But, in fact, there is no new policy in town.

The point I make is since Social Security was started in 1936, except for about 18 months in the years 1982 and 1983, it has had a positive cashflow, more money coming in from the Social Security payroll tax than has been paid out in benefits. As we anticipate that for the future, that will be true for another 14 years, or so.

So for people who read this statement by Congressman SPRATT—and I quote: When it comes to waging war on terrorism, the President has our total support, but national security and homeland security need not come at the expense of Social Security—I say it is not coming at the expense of Social Security. Nothing has changed on Social Security since 1936. We have a positive cashflow today. We have had a positive cashflow every year except for 18 months in 1982 and 1983, and we will have a positive cashflow in Social Security for at least another 13 or 14 years. National security and homeland security are not coming at the expense of Social Security, I say to the distinguished Congressman in the other body.

Since we still have a positive cashflow in the year 2002, and we had a positive cashflow starting when the tax was first implemented, except for those 2 years, what happens with Social Security money? The disposition of Social Security money is the same today, last year, and years we have been running a surplus in the unified budget, and for a long time back. The surplus is invested in Treasury bonds because those are considered the safest investment for retirees. They draw interest. The interest accrues to the benefit of Social Security. That positive cashflow invested in Treasury bonds, plus the interest that is accrued, is going to be used to pay Social Security benefits when there is a negative cashflow in some future year. That is the way Social Security was set up. That is the way it has been operated since it was implemented in 1936. That is the way I believe it will be for a long time into the future.

National security and homeland security is not coming at the expense of Social Security. Let me give a parallel analysis. I will use the highway trust fund. In my State, it is the road use tax fund. At the Federal level it is the highway trust fund. All of the gas tax money goes into the highway trust fund. It is paid out of that highway trust fund for transportation, mostly for highways. It is not used for anything else. There are times, though, that the Federal Government decided they did not want to spend all the highway trust fund money. It was invested in Treasury bonds, as well. And it was not used to buy bombs and guns

and pay military pay. Over a period of years a lot of money accumulated.

In the last highway bill, Congress decided we ought to spend down that money that accumulated in the highway trust fund, and we spent it down. Not entirely, but we are spending it down. Consequently, if you can take that money that accumulated in the highway trust fund, that was not spent on roads on a current basis, but later was and is being spent for highways, it is exactly the same for Social Security. Moneys accumulate, with interest accruing to the trust fund, to be spent when it is needed, in the same way that the gas money, when it was not spent on highways, accumulated and later Congress decided we ought to spend more money on highways and we spent more money on highways.

It is one of the facts of trust fund accounting. The problem comes when we put Social Security in the context of a unified budget that it somehow gets lost in the public's mind. I assure the public that the implication of the statement by the ranking Democrat on the House Budget Committee, Congressman SPRATT, that the President's war on terrorism, the American people's war on terrorism could somehow be paid for by Social Security. In fact, it is not being financed by Social Security money.

TAX RELIEF

Mr. GRASSLEY. Mr. President, I will comment also on the tax relief bill signed by the President of the United States on June 7, the tax bill that Senator BAUCUS and I wrote in a bipartisan way, to get passed last year. I will concentrate on the stimulative impact on the tax bill of last year because now, being in a recession and being on another stimulus package, I don't think we ought to lose sight of the fact that the tax bill of last year is having some economic good at a time most needed, in a time of recession.

It does contain a significant number of tax reduction and tax relief provisions that will go into effect and should help build consumer confidence. Part of the economy may be uncertain, but the tax outlook is clear: Under the law we passed, Federal income taxes have declined and will continue to decline over the next 10 years. Taxpayers can take that knowledge to the bank, regardless of Senator KENNEDY's suggestion that we not allow the remaining provisions of the tax bill to go into effect.

Obviously, I don't think Congress should stop here. Our huge economy needs a shot in the arm. The tax bill of last year will help to provide that shot in the arm. It contains a generous amount of relief for individual taxpayers. Some of the measure's tax cuts went into effect last year and many other provisions became effective January 1 of this year. Those are the provisions I will address.

There is a new 10-percent rate bracket. The act created a new 10-percent regular income tax bracket for a part of taxable income that had otherwise been taxed at a higher rate of 15 percent. The 10-percent bracket applies to the first $6,000 of taxable income for single individuals; $10,000 of taxable income for heads of household; and $12,000 for married couples filing jointly. This is effective beginning after December 31, 2000. That money is out there to stimulate the economy right now, but it will continue this year and next year and into the future.

We had a reduction in other individual tax rates, the regular income tax rates phased down over 6 years. So effective July 1 of last year through 2003, the 28-percent rate is cut to 27 percent. We hope in this economic stimulus package to speed that one rate up, it be reduced to 25 percent right now to help middle-income taxpayers and to stimulate the economy at the same time. However, as written in last year's tax bill, the 31-percent rate is cut to 30 percent right now. The 36-percent rate is cut to 35 percent right now. The 39.6-percent rate is cut to 38.6 percent.

Eventually, all these separate rates, after this phase-in period is done, will become 25 percent, 28 percent, 33 percent, and 35 percent, respectively.

An increase and expansion of the child tax credit is surely going to help families, particularly middle-income families, particularly those in the $30,000-a-year income tax range, with their family needs, putting more money in their pockets. It is going to be a stimulus to the economy. The child credit was expanded to $600 per child, immediately through the year 2004; it goes up to $700 through the year 2008; $800 through the year 2009; and finally, $1,000 in 2010. But, more important, the child credit was made refundable to the extent of 10 percent of the taxpayer's earned income in excess of $10,000 for the years 2001 through 2004, and this is increased to 15 percent after the year 2005.

I emphasize that because of all the people who say the Tax Relief Act of last year was for the wealthy. A refundable credit is helping people of the lower income tax bracket very much. For example, in the year 2001, a single mother with two children, making $15,000, received a credit of $500. This single mother likely now will receive a bigger tax refund check when she files her 2001 tax return by April 15. This expansion of the child credit will ensure that millions of low-income families, not rich people, will now receive the benefit of this child credit. For those people who spend so much of their income, maybe all of it in some cases, they are going to have more money to spend, and that is going to stimulate the economy.

Then we have the extension and expansion of the adoption tax credit, not so much as a stimulus to the economy but because stable families are very important to our society. Moving children out of foster care into a home where they can actually have a mom and dad is very important social policy. So we move the tax credit from $5,000 to $10,000. Today, in the case of the special needs child, that tax credit is $6,000. This provision significantly eases the financial burden of adoption and encourages adoption. This is in effect for taxable income starting this year.

We have a tax credit, then, for employers who provide child care for their employees. In my State of Iowa, 72 percent of the households have both spouses working, the highest percentage of any State in the Nation. For those families who have children, the need for dependable child care is very important. Getting that from the employer is even better for those families. So this new tax credit provides an incentive for employer-provided on-site daycare facilities. This is effective for taxable years beginning right now.

We have marriage penalty relief, and it relates to the earned-income tax credit. That earned-income tax credit, which is available only to low-income families, phases out for married couples. We increased that phaseout by $1,000 immediately and ultimately increase it to $3,000. So those families who would otherwise have that earned-income tax credit phased out, not having the money, not being able to stimulate the economy, now are going to have up to another $1,000 immediately available. Again, being low-income families, that ought to help stimulate the economy starting right now for the year we are in.

Mr. President, I see the Senator from Vermont. Is it possible for me to have another 5 minutes?

Mr. LEAHY. Of course.

Mr. GRASSLEY. I ask unanimous consent if I may have 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. If I might then be recognized after the Senator?

Mr. GRASSLEY. I add that to my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

So, obviously, this is going to help stimulate the economy because this $1,000 is going to go to low-income families who do not have very much discretionary income and can use it to improve their lot. But at the same time it will stimulate the economy—whether it is spent or whether they save it.

We have improvements in the education savings accounts, or what we might call education individual retirement accounts, individual education IRAs. The annual limit on contributions to the education savings account increases from $500 to $2,000. The definition of qualified education expenses that may be paid tax free from the education savings account is expanded to include elementary and secondary school expenses. The phaseout ranges—for married taxpayers filing joint returns, it is increased to become twice

the rate of single taxpayers, so more families can take advantage of this. Corporations and other entities, including tax-exempt groups, are permitted to make contributions to education savings accounts. These changes are effective right now, this taxable year.

Then we have expanded consideration of prepaid tuition programs. Several provisions will encourage participation in prepaid tuition programs for higher education. Investment gains will be tax free, and private colleges and universities happen to be offering these plans. This provision goes into effect now.

There is an exclusion for employer-provided educational assistance. This extends the exclusion to graduate education and makes the exclusion for undergraduate and graduate education permanent, effective right now.

Then we have improvement in the student loan interest deduction. This eliminates the 60-month limit on the deduction of interest from a student loan. The income phaseout ranges, for eligibility for the student loan interest deduction, increasing it from $50,000 to $65,000 for individuals and from $100,000 to $130,000 for married taxpayers on joint returns. We repeal the restriction that voluntary payments of interest are not deductible. These provisions are effective right now.

Then we have tax benefits for governmental bonds for public school construction. These benefits are effective for bonds issued starting this year.

There is a deduction for college tuition, a provision allowing above-the-line deduction for college tuition expenses. It is intended to help low- and middle-income families pay for college.

In the years 2002 and 2003, individuals with adjusted gross incomes of $65,000 may deduct $3,000. In the years 2004 and 2005, for those same individuals it would be $4,000. In the case of taxpayers with adjusted gross income that does not exceed $80,000, the deduction would be $2,000.

I just read a lot of provisions that were taken from the tax bill. I started my remarks by talking about the stimulus impact of the tax bill we passed 7 months ago, the impact it is going to have at a time of recession. People might raise some question about the education provisions to which I just referred, of their stimulative impact. In a time of recession, obviously beyond the good that education does generally to help people in their lives in the future, we have a situation where maybe in a recession, families would shy away from going to college—their kids going to college, or adults, independent adults going to college. As they look at the provisions of last year's tax bill and the benefits that come from it, they might see the advantage of continuing their education, even at a time of recession.

Any of that money that is spent as a result of that would obviously have some impact as stimulus in the economy. But for the long haul, it is a stimulus, too, because as people are better educated, they are more productive; they earn more money. It helps the long-term recovery of our economy.

I want to make some reference to the estate and gift tax provisions. These have a beneficial impact, but they are not entirely stimulative for right now. Again, we have small business people who tend to be the most harmed by not being able to pass on the family business to their next generation. There is always a lot of anxiety during times of recession and during times of economic downturn.

We ought to do whatever we can to relieve the anxiety of small business people who are under very tough constraints because of the recession. We ought to relieve that anxiety to the greatest extent possible.

It gives me a chance to say what Senator KYL said just before I took the floor; that is, that we have an opportunity on this economic stimulative package to make sure that the estate tax provisions of the bill the President signed last June be made permanent.

I am going to yield the floor at this point. I thank my colleagues for their attention to some provisions of an old story—the tax bill of last year, a tax bill that is going to have beneficial impacts well into the future but, most importantly, has some impact right now as we are in a time of recession.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Vermont.

Mr. LEAHY. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. LEAHY. I thank the Chair.

NEW YORK

Mr. LEAHY. Madam President, I compliment the distinguished Presiding Officer, and her distinguished colleague, Senator SCHUMER, for not only the State of New York but for the City of New York.

I had the privilege of attending the economic summit in New York City this weekend. I saw the distinguished Presiding Officer on several occasions. In fact, I was beginning to think that somehow she had been cloned because she was attending and speaking and was involved in so many different events.

I know the economic summit came to New York City as a gesture of solidarity with the city after the terrible events of last fall. They came there knowing that not only would they bring people from around the world as well as from our own country, but they would bring the press from around the world to show the world that New York City is open, and New York City is in a position to handle, as it always has, any group of any size for any purpose. I want to say that New York City did.

I was extraordinarily impressed with the level of everything from communications, certainly to law enforcement—New York's finest was there—to the continuing work at ground zero. My wife and I and our daughter visited to see again the work that continues by these brave men and women from the New York Fire Department, who are still working there. The police department is still working there, and other agencies as well as volunteers.

I was gratified to see while we were there a number of foreign visitors going to ground zero. Anybody has to be moved just reading the notes that have been left there by family members. While we were there, foreign delegations were laying wreaths and paying homage.

The point, though, is that New York City reflects, really, what is best in America. We have seen a major city of commerce, of education, of entertainment, and of history badly damaged that came right back, and was able to demonstrate that to the rest of the world.

As one coming from the State of Vermont, I sometimes hear regional accents at their best when I go to New York City. I am sure that New Yorkers feel the same way when they come to Vermont. But the accent I heard was one of hope, of excitement, of all the best things that are reflected by that city.

I commend not only the two Senators, my two friends from New York, but everybody—from the mayor to the Governor, and everyone who has worked so hard on this. New York City is open for business, as it was for some members of the Leahy family. It was a pleasure to be there.

ON THE CONFIRMATION OF JUDGE PHILIP MARTINEZ

Mr. LEAHY. I commend the Majority Leader and our Assistant Majority Leader for bringing the confirmation of Judge Martinez of Texas to a successful conclusion today. I also want to thank Senator DURBIN for having chaired the hearing in December that laid the groundwork for the confirmation of Judge Martinez and four other federal judges.

At the Committee meeting at which we considered the nomination of Judge Martinez, I inserted in the RECORD a letter I had recently received from Congressman SILVESTRE REYES of Texas strongly endorsing him. Congressman REYES noted that the court to which Judge Martinez is nominated is facing a criminal caseload of over 2,000 cases with a single active judge in the El Paso region personally trying to manage over 1,100 criminal cases. I say to Congressman REYES and Judge Briones, help should be on the way very soon in the person of Judge Martinez.

It was not so long ago, when the Senate was under Republican control, that it took 943 days to confirm Judge Hilda Tagle to the United States District Court for the Southern District of Texas. She was first nominated in August 1995, but not confirmed until

March 1998. When the final vote came, she was confirmed by unanimous consent and without a single negative vote, after having been stalled for almost three years.

I recall that the nomination of Michael Schattman to a vacancy on the Northern District of Texas never got a hearing and was never acted upon, while his nomination languished for over two years. I recall just two years ago when Ricardo Morado, who had served as Mayor of San Benito, Texas, and was nominated for a vacancy in the Southern District of Texas, never got a hearing and was never acted upon.

These are district court nominations that could have helped solve problems in the trial courts if acted upon by the Senate over the last several years. In addition to these nominees, the Republican-led Senate failed to provide a hearing and failed to take action on the nominations of Jorge Rangel and Enrique Moreno to the same emergency vacancy on the Fifth Circuit Court of Appeals over the last four years.

In contrast, we are moving expeditiously to consider and confirm Judge Martinez, who was nominated in October, received his ABA peer review in November, participated in a hearing in early December, was reported by the Committee on December 13 and is today being confirmed. In addition, Randy Crane, a nominee to a vacancy on the Southern District of Texas District Court will be having a confirmation hearing in the near future.

Just as we have worked hard since July and paid attention to the needs of the district courts in Montana, Kentucky, Kansas and Alabama, whose Chief Judges wrote asking for prompt attention to serious problems, we are responding to the needs of our courts throughout the country.

The first two confirmations to the district courts last summer were Judge Cebull and Judge Haddon to the District Court in Montana. The Chief Judge of that court had written to us asking for our immediate attention and help because he had no active associate judge in that district. We responded. Working with Senator BAUCUS and Senator BURNS, a Democrat and a Republican, the two nominees were included in our very first hearing, which held the day after Committee members were assigned. They were both confirmed the following week, on July 20, 2001.

Similarly, we heard from the Chief Judge of the District Court for the Eastern District of Kentucky. We responded by holding hearings for three judicial nominees to vacancies in that Court and proceeded to confirm two so quickly that they had to delay being sworn in to wind down their legal practices.

Likewise, when we heard from the Chief Judge of the District Court for Kansas, we responded. We moved expeditiously to hold a hearing, report and confirm Judge Robinson to alleviate the emergency situation that the Chief Judge indicated existed in Topeka.

Yesterday, as the Senate confirmed the second district court judge for courts in Alabama since November, we learned from Senator SESSIONS that the Chief Judge of the Southern District of Alabama had written to him to urge action in filling the vacancy in that court and noted that he was the only active judge left.

Similarly, today we provide relief to the district courts in Texas.

I congratulate the nominee and his family on his confirmation today.

With today's confirmation, the Senate has confirmed four additional judges since returning late last month. The Senate will have confirmed 32 judges since the change in majority last summer. One-quarter of the judges confirmed have been for judicial emergency vacancies, eight so far. Unfortunately, the White House has yet to work with home State Senators to send nominees for an additional 15 judicial emergency vacancies and 31 federal trial court vacancies.

Of course, I have yet to chair the Judiciary Committee for a full year; it has been barely six months. But the confirmations we have achieved in those six months are already comparable to the year totals for 1997, 1999 and 2000 and almost twice as many as a Republican majority in the Senate allowed to be confirmed in 1996.

The 1996 session was the second year of the last Republican chairmanship. In that 1996 session, only 17 judges were confirmed all year and none were confirmed to the Court of Appeals—none. I expect and intend to work hard on additional judicial nominations through this session and to exceed the total from the 1996 session of only 17 confirmations. In that 1996 session, the fourth judicial confirmation did not occur until April. By contrast, we will have confirmed four additional judges by the middle of the first full week in session this year.

The Judiciary Committee held its first hearing of the session on our second day in session, January 24, for Judge Michael Melloy, a nominee to the 8th Circuit from Iowa, and district court nominees from Arizona, Iowa, Texas, Louisiana and the District of Columbia, a total of six judicial nominations.

I have set another hearing on the nomination of Judge Charles Pickering for the 5th Circuit for this Thursday, February 7, 2002.

I am working to hold another confirmation hearing for judicial nominations, as well, before the end of February, even though it is a short month with a week's recess.

I noted on January 25 in my statement to the Senate that we inherited a frayed process and are working hard to repair the damage of the last several years. I have already laid out a constructive program of suggestions that would help in that effort and help return the confirmation process to one that is a cooperative, bipartisan effort. I have included suggestions for the White House, that it work with Democrats as well as Republicans, that it encourage rather than forestall the use of bipartisan selection commissions, that it consider carefully the views of home State Senators.

This past summer, by the time I became chairman of the Judiciary Committee, federal court vacancies already topped 100 and were rising to 111. Since July, we have worked hard and the Senate has been diligent in considering and confirming 32 judges, thereby beginning the process of lowering the vacancies on our federal courts. Since I became Chairman, 26 additional vacancies have arisen. Still, we have been able to outpace this high level of attrition and lower the vacancies to under 100.

During the last six and one-half years when a Republican majority controlled the process, the vacancies rose from 65 to over 100, an increase of almost 60 percent. By contrast, we are now working to keep these numbers moving in the right directions.

Our Majority Leader, with the help of the Assistant Majority Leader, is clearing the calendar of judicial nominations and the Senate has proceeded to vote on every one of them. This is one of the reforms that signals a return to normalcy for the Senate, which had gotten away from such practices over the past six years. Since the change in majority, judicial nominees have not been held on the calendar for months and months or held over without action or returned to the President without action.

I have observed that to make real progress will take the cooperation of the White House. The most progress can be made most quickly if the White House would begin working with home State Senators to identify fair-minded, nonideological, consensus nominees to fill these court vacancies. One of the reasons that the Committee was able to work as quickly as it has and the Senate has been able to confirm 32 judges in the last few months is because those nominations were strongly supported as consensus nominees.

I have heard of too many situations in too many States involving too many reasonable and moderate home State Senators in which the White House has demonstrated no willingness to work with home State Senators to fill judicial vacancies cooperatively. As we move forward, I urge the White House to show greater inclusiveness and flexibility and to help make this a truly bipartisan enterprise. Logjams exist in a number of settings.

To make real progress, repair the damage that has been done over previous years, and build bridges toward a more cooperative process, there is much that the White House could do to work more cooperatively with all home State Senators, including Democratic Senators.

Of course, more than two-thirds of the federal court vacancies continue to be on the district courts. The Administration has been slow to make nominations to the vacancies on the federal trial courts. In the last five months of last year, the Senate confirmed a higher percentage of the President's trial court nominees, 22 out of 36, than a Republican majority had allowed the Senate to confirm in the first session of either of the last two Congresses with a Democratic President. Last year the President did not make nominations to almost 80 percent of the current trial court vacancies. As we began this session, 55 out of 69 vacancies were without a nominee.

In late January, the White House finally sent nominations for another 24 of those trial court vacancies. After the Committee receives the indication that the nominees have the support of their home State Senators and after the Committee has received ABA peer reviews, these recent nominations will then be eligible to be included in Committee hearings. Because the White House shifted the time at which the ABA does its evaluation of nominees to the post-nomination period, these 24 nominees are unlikely to have completed files ready for evaluation until after the Easter recess. Even then, over two and one-half dozen of the federal trial court vacancies, 31, may still be without eligible nominees.

We have accomplished more, and at a faster pace, than in years past. We have worked harder and faster than previously on judicial nominations, despite the unprecedented difficulties being faced by the nation and the Senate. I am encouraged that this confirmation today was not delayed by extended, unexplained, anonymous holds on the Senate Executive Calendar, the type of hold that characterized so much of the previous six and one-half years. Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar.

I thank all Senators who have helped in our efforts and assisted in the hard work to review and consider the dozens of judicial nominations we have reported and confirmed. I thank, in particular, the Senators who serve on the Judiciary Committee for their helpful action since this summer. As our action today demonstrates, again, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from New York, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. The time of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. JOHNSON).

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, is the Senate currently in morning business?

The PRESIDING OFFICER. No, it is not.

Mr. DORGAN. What is currently pending?

The PRESIDING OFFICER. The regular order is to have the clerk report the pending business.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ENRON CORPORATION CEO SUBPOENAED

Mr. DORGAN. Mr. President, I come to the floor of the Senate to discuss, just for a few minutes, the action taken this morning in the Senate Commerce Committee. We voted unanimously to support a subpoena being delivered to Mr. Kenneth Lay, who is the former chairman and CEO of the Enron Corporation. I want to describe for my colleagues what brought us to this point and why we believed we had to vote to authorize a subpoena being issued.

About 4 to 6 weeks ago, Mr. Lay's attorneys told us that Mr. Lay would be willing to appear before the Senate Commerce Committee. That was in response to a request by us as we began to investigate what happened with respect to the Enron Corporation. As you know, this is the largest bankruptcy in American history. There is substantial information that has been available for some while now, prior to and since the bankruptcy, about things that had happened inside the corporation that cause a great deal of concern.

A memo by one of the vice presidents of Enron was presented to the CEO, Mr. Lay, in August of last year. That memo by Vice President Watkins talked about accounting hoaxes and irregularities of sorts, and warned about what people would find if they dug into the partnerships that were being created in this corporation.

Then, in November and December, that company's auditors, Arthur Andersen and Company, talked about possible illegal acts with respect to that corporation and the review of some documents.

Then, last Saturday, a report that was commissioned by the board of directors of the Enron Corporation, the Powers report, described a broad range of very serious problems that went on inside that corporation.

At any rate, during this period of time we had requested the testimony before the subcommittee and the full committee of the Commerce Committee by Mr. Lay. His attorneys said he would be made available on February 4 at 9:30 in the morning. They continued to say that even through last Friday and Saturday.

On the Sunday evening before Mr. Lay's scheduled appearance, we were called his attorneys. They told us that Mr. Lay had changed his mind and he would no longer be available to testify and would therefore not appear on Monday morning.

Mr. Lay's attorneys wrote a letter saying the problem was that Mr. Lay had heard comments about his company that concerned him. They felt it would probably be a prosecutorial kind of environment in the committee hearing on Monday, and therefore he did not want to appear.

The fact is, the comments that were made by a number of Members of the Senate prior to Sunday were no different than the assertions made to the CEO of Enron by his own employee last August, by his accounting firm in November and December, and especially by his own company's board of directors on Saturday last.

Mr. Lay, in my judgment, following the report by the board of directors of this corporation, decided that he did not want to talk to anybody publicly and decided to lay it off on some Members of Congress, saying that is the reason he did not want to come and testify.

Let me tell you what was in that report, just to give one small example. This report says that in this corporation, one of the corporate officers, Mr. Fastow, in creating one of the partnerships—incidentally, there were a lot of secret partnerships created here—Mr. Fastow invested $25,000 of his own money in a partnership in a corporation of which he was an officer. Sixty days later, that $25,000 was $4.5 million to Mr. Fastow.

Does anybody in this room know of investments like that? Would you like to make a $25,000 investment that, in 60 days, becomes $4.5 million? Where can you do that? The lottery, but that is not a sure thing.

No, this wasn't gambling inside the corporation. This was just people playing fast and loose with the truth and with other people's money. When someone takes $25,000 and turns it into $4.5 million in 2 months, in my judgment, that is stealing. That is just stealing—yes, quote unquote, stealing—from investors who own the shares in that corporation.

At the same time that you have an officer of the company taking $25,000 and in 60 days turning it into $4.5 million, at the same time that is happening, one of my constituents in North Dakota is writing a two-page letter to me. That letter, an anguished cry from this family, asks the following question:

What on Earth has happened? I worked for this company's subsidiary for many, many years and have put away $300,000 into a retirement account. Do you know what my retirement account is worth today?—$1,700; from $300,000 to $1,700.

He and his family have lost it all. But inside that corporation we had people making millions.

Was that a corporate culture of corruption? You bet your life it was. And the reason Mr. Lay has decided not to come to the Congress to testify was not because of anything anyone has said. It is because of what this Powers report has found that went on inside this company. I will give another example.

This company decided to create a little partnership called Braveheart to accommodate some business they were going to do with the Blockbuster Corporation. They were actually going to have Blockbuster be the repository of movies. They were going to stream these videos or movies to consumers around the country. It was going to be a big business. It was announced in March of 2000. By February of the next year it was gone. But in the meantime they created a little partnership called Braveheart to take care of all this.

Do you know what Braveheart did? Braveheart borrowed roughly $112 million from a Canadian bank. Then it sold its assets to the Enron Corporation for slightly over $100 million. The Enron Corporation booked it as a business profit, when in fact all it was a bank loan from a Canadian bank, run through a partnership that wasn't doing any business at all—just a few test markets with a few customers. You tell me whether that is honest business.

It is not. Can someone come to the Congress and defend that? They can't. That is why we have people who were at the head of this corporation who were unwilling to talk.

I just wanted to make the point that the assertions by attorneys on behalf of principals in this corporation are suggesting that they have been offended because they might find a prosecutorial approach at some of these hearings. No one suggested that a hearing before this Congress would ever be a walk in the park, especially when you have a record inside this corporation of financial manipulation, of dishonest accounting, and of personal enrichment of officers and directors.

I wanted to make that point about what we had to do this morning. We issued a subpoena for Mr. Lay. It was issued on a unanimous vote by the Senate Commerce Committee. That is nearly unprecedented. We don't issue subpoenas in the Commerce Committee. We have the power and authority to do so, but we don't do it very often. But we did it because we felt we had no choice.

Mr. President, I had asked permission to speak in morning business. I have just a couple of other things to mention very briefly, and I want to do that in a separate section of morning business. How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. DORGAN. Let me ask if I can extend that by 2 minutes by consent.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I will not object to that at this point. I know Senator TORRICELLI has some brief remarks. I know they both are very interested in these issues and it is time we talk about them, but we have a stimulus package on the floor and we want to get to that as soon as possible.

Is 5 minutes all right for Senator TORRICELLI?

The PRESIDING OFFICER. The Senator from North Dakota has the floor. Is there objection to his request?

Mr. TORRICELLI. Reserving the right to object, Mr. President, I request at the conclusion of Senator DORGAN that I be recognized for 10 minutes.

Mr. SESSIONS. I have to object to 10 minutes.

Mr. TORRICELLI. The Senator has 5 minutes. Mr. President, I hate to get into a bidding process, but I would like to have a reasonable amount of time to be recognized after Senator DORGAN.

Mr. SESSIONS. We have business on the floor, and I know people would like to change the focus of our debate on the stimulus package, which is overdue in my view. I was willing to let the Senator have a few more minutes. I would not object to 5 minutes.

Mr. TORRICELLI. I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two and one-half minutes.

Mr. DORGAN. Mr. President, I asked for 2 minutes in addition to the minute and a half remaining at that point. I expect I will have 3 and a half minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STIMULUS PACKAGE

Mr. DORGAN. Mr. President, I'd like to talk a moment about several items I think ought to be included in the economic recovery package.

One, I have filed an amendment that would provide for a 5-year extension of the wind energy production tax credit. We really must get that done. Regrettably, this credit was allowed to expire at the end of last year. As a result, many lenders have stopped providing financing for new wind energy projects. Wind development projects underway have come to a screeching halt.

Extending the wind energy production tax credit would provide an immediate boost to the economy. We have a lot of projects on the books that aren't moving because the credit expired. A long-term extension will jump-start development activity, create jobs and help this country meet its future energy needs. Each new wind turbine placed into service creates about $1 million in economic activity.

I would like to make the wind energy production tax credit permanent. My proposal today would extend it for 5 years. Clearly, a shorter term extension will not provide developers the certainty and stability they need to plan and finance new wind energy projects. I think Congress must act quickly to ensure the availability of the wind energy tax credit over the long term. If we don't act now, many wind energy initiatives will be scrapped at a time when this country can least afford it.

Second, I intend to offer and have filed an amendment to permit companies that have recently suffered net operating losses to carry back those losses for 5 years for federal income tax purposes. I will not go into a lengthy description of why we ought to do that. But my amendment should provide some needed financial help for those companies that have been hurt most during the current economic downturn. It will increase cash flow for many of these firms and help them make payroll, avoid additional layoffs and, hopefully, encourage new hiring. It will also help them to make investments in equipment and machinery they need to rebuild, grow and prosper.

There is bipartisan support in both the Senate and the House of Representatives for net operating loss carry-back relief proposals. We ought to include in a 5-year net operating loss carry-back provision in the economic recovery package.

Finally, I've filed an amendment that would provide tax relief for many S-corporations that sell ''built-in'' gain assets and reinvest the proceeds from those sales back into their companies. Today, there are hundreds of thousands of firms that operate as S corporations that would have a huge tax impediment if they were to sell certain appreciated business assets. The taxes they would be required to pay on that gain, even if they reinvest it, would be prohibitive. As a result, many S-corporations are forced to keep these assets—even if they are no longer productive and could be converted into assets that generate new growth and jobs.

The amendment I filed today would allow those who are involved in these S-corporations to sell built-in gain assets without facing a massive federal tax bill, provided they reinvest the proceeds into the business within a two-year period. That, too, is stimulative.

Many of these companies are the job-producing companies in this country.

To allow them to sell less productive assets and reinvest into more productive assets will be very stimulative to this country's economy. It will produce jobs and economic growth and opportunity. But they are locked out of that at the present time by the Tax Code. My amendment proposes to change that result and I hope we will get an opportunity to consider it during the debate on the economic stimulus package.

One final point: The Kyl amendment, of which I am supportive, dealing with tourism is an amendment to which I want to offer a second-degree amendment dealing with loan guarantees. It would cost $200 million or $300 million over the 10-year period. It deals with a subject about which I have spoken with Senator KYL and Senator REID.

Many of the businesses connected to the airports and the airlines that were shut down post-September 11 are in desperate condition. A program of loan guarantees dealing with the most fragile of those businesses which were shut down through no fault of their own—through edict by the Federal Government—would be appropriate in those unusual circumstances and would be guaranteed by an amendment attached to the Kyl amendment.

I hope to be able to offer that as a second-degree amendment dealing with travel agents, car rentals, and others attached to airports which suffered just as much as the airlines did when the airlines were ordered to be shut down and there was no travel anywhere in the country for a specific period.

As I indicated, I noticed the previous amendments yesterday. I wanted to indicate that I would be prepared to offer a second-degree amendment to Senator KYL's amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

VOICE OF INQUIRY

Mr. TORRICELLI. Mr. President, the President of the United States has challenged the Nation to commit an additional $120 billion in resources for our Armed Forces. Indeed, when the Nation is attacked, that is as it should be. The President has asked us to commit $40 billion to deal with internal security in our country. With the loss of life we have suffered and all of our apprehension about terrorism, that is as it should be. It is, however, an extraordinary request.

While our willingness to commit resources is endless to guarantee the security of our country, our national curiosity about these circumstances and how our country was so vulnerable seems to be very limited indeed.

It has been 5 months since the lives of our people were taken in the most devastating attack on America in history. There have been words of rage and revenge, vows to strengthen our security and to commit endless resources. There has been everything except a voice of inquiry.

On September 10, this Nation was not without resources, with a $320 billion defense establishment larger than a dozen other industrial nations combined; a massive internal law enforcement apparatus; and, by press accounts, a $30 billion intelligence establishment.

The terrorist attack on September 11 apparently was waged with the combined financial resources of $250,000. It was implemented by 19 people. Why is it I believe that probably financial resources were not determinative in the success of this evil attack? Why is it that I suspect it was probably not the numbers of personnel available? The country was not without resources on September 10. But something went terribly wrong. The allocation of resources, quality of leadership, strategy—I don't know. The real point is neither does anybody else, including the President of the United States and Members of the Senate.

At some point, 260 million Americans, with all the rage they feel against our enemy, with all the anger they feel, and with all the sympathy they feel for the victims, are going to want to know what happened and why.

There is no limit to the resources that I will vote to make available to the Commander in Chief to defend this Nation. But there is no limit to the efforts I will make to get accountability in this Government for our people.

In my State, there are hundreds—indeed, there are several thousands—of widows and orphans. As much as any American, as much as history itself, these people are going to demand answers in the course of their lives.

The President has suggested his preference is that we hold private hearings in the intelligence community. That is not how we conduct this Government. There was not an attack on the intelligence committee, nor is it their responsibility alone. Our accountability is to the people of the country. Yet the administration claims that such hearings or inquiries would be a distraction from the war on terrorism. That is not our history or how we conduct our Government.

Ten days after Pearl Harbor, with half of the American fleet in ruins and with fears of an attack on California by the Imperial Japanese Navy, FDR ordered an inquiry into how indeed we were so undefended. The *Challenger* lay in ruins with all of our ambitions for a space program, and Ronald Reagan did the same for NASA. This instance deserves no less. Accountability is at the core of any representative government.

On behalf of the people of my State and the victims—their wives, husbands, parents, and children—I demand it now. This Nation needs a board of inquiry to determine the events of September 11—how it occurred and why; where we succeeded and why we failed—not for the sake of revenge, not to cast blame, but to ensure that it never happens again. Armed only with that knowledge—more than any funding or any new weapon—can we genuinely assure our people that those events will not be repeated.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, during the conferences we have had, it has been determined we could have a voice vote on the Bunning amendment. So I ask unanimous consent that after the Chair reports the bill, we move to the Bunning amendment, followed by the Reid for Baucus amendment. It is not a Reid amendment; I just offered it for Senator BAUCUS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

HOPE FOR CHILDREN ACT—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

Pending:

Daschle/Baucus amendment No. 2698, in the nature of a substitute.

Reid (for Baucus) amendment No. 2721 (to amendment No. 2698), to provide emergency agriculture assistance.

Bunning/Inhofe modified amendment No. 2699 (to the language proposed to be stricken by amendment No. 2698), to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies.

Hatch/Bennett amendment No. 2724 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to allow the carryback of certain net operating losses for 7 years.

Domenici amendment No. 2723 (to the language proposed to be stricken by amendment No. 2698), to provide for a payroll tax holiday.

Allard/Hatch/Allen amendment No. 2722 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

Smith of New Hampshire amendment No. 2732 (to the language proposed to be stricken by amendment No. 2698), to provide a waiver of the early withdrawal penalty for distributions from qualified retirement plans to individuals called to active duty during the national emergency declared by the President on September 14, 2001.

Smith of New Hampshire amendment No. 2733 (to the language proposed to be stricken by amendment No. 2698), to prohibit a State from imposing a discriminatory tax on income earned within such State by nonresidents of such State.

Smith of New Hampshire amendment No. 2734 (to the language proposed to be stricken by amendment No. 2698), to provide that tips

received for certain services shall not be subject to income or employment taxes.

Smith of New Hampshire amendment No. 2735 (to the language proposed to be stricken by amendment No. 2698), to allow a deduction for real property taxes whether or not the taxpayer itemizes other deductions.

Sessions amendment No. 2736 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to provide tax incentives for economic recovery and provide for the payment of emergency extended unemployment compensation.

Grassley (for McCain) amendment No. 2700 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence.

Kyl amendment No. 2758 (to the language proposed to be stricken by amendment No. 2698), to remove the sunset on the repeal of the estate tax.

Reid modified amendment No. 2764 (to amendment No. 2698), to amend the Internal Revenue Code of 1986 to provide a refundable credit for recreational travel, and to modify the business expense limits.

Reid (for Durbin) amendment No. 2766 (to amendment No. 2698), to provide enhanced unemployment compensation benefits.

Lincoln amendment No. 2767 (to amendment No. 2698), to delay until at lease June 30, 2002, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

Thomas amendment No. 2728 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to modify the qualified small issue bond provisions.

Craig amendment No. 2770 (to the language proposed to be stricken by amendment No. 2698), to amend the Internal Revenue Code of 1986 to expand the availability of Archer medical savings accounts.

Grassley amendment No. 2773 (to the language proposed to be stricken by amendment No. 2698), to provide tax incentives for economic recovery and assistance to displaced workers.

AMENDMENT NO. 2699, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2699, as modified.

Mr. REID. Mr. President, I ask unanimous consent the yeas and nays on the Bunning amendment, which have been previously ordered, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 2699, as modified.

The amendment (No. 2699), as modified, was agreed to.

Mr. REID. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2721

Mr. REID. Mr. President, it is my understanding we are now on the Baucus amendment, which has been previously debated.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. It is my understanding there are others who wish to speak on this amendment. I ask all those within the sound of my voice to come over and renew the debate.

AMENDMENT NO. 2807 TO AMENDMENT NO. 2721

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I believe we are on the Baucus amendment. On behalf of Senator KYL, I call up amendment No. 2758 as a second-degree amendment.

Mr. REID. Mr. President, does it take unanimous consent to move off the Baucus amendment to the Kyl amendment?

Mr. SESSIONS. I offer this as a second-degree amendment.

The PRESIDING OFFICER. Second-degree amendments are in order.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mr. KYL, proposes an amendment numbered 2807 to the amendment No. 2721.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To remove the sunset on the repeal of the estate tax)

At the end, add the following:

SEC. . PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking ''this Act'' and all that follows through ''2010'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) by striking '', estates, gifts, and transfers'' in subsection (b).

Mr. REID. Mr. President, will the Senator yield for the purpose of a unanimous consent request? This will require no debate. There is an amendment Senator KYL and I filed on which Senator DORGAN wants to offer a second-degree amendment. He says he does not need to debate it at this time.

I ask unanimous consent that we be allowed to move off the pending amendment temporarily so that Senator DORGAN can offer his amendment to the Reid-Kyl amendment, and then we will be right back on the second-degree amendment of the Senator from Arizona.

Mr. SESSIONS. Do we have a time agreement? How quickly will we be back on the Kyl amendment?

Mr. REID. Two minutes?

Mr. DORGAN. Yes, Mr. President, that will be fine.

Mr. SESSIONS. Will the Senator from Nevada restate the unanimous consent request?

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the Reid-Kyl amendment, which is two amendments down the line, and that Senator DORGAN offer a second-degree amendment, be allowed to speak for 2 minutes, and then we immediately return to the Kyl second-degree amendment to the underlying Baucus amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I wish to offer a second-degree amendment. I ask unanimous consent that we be on amendment No. 2764 which has been proposed by Senator REID and Senator KYL.

Mr. KYL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. The point of the unanimous consent request of the Senator from Nevada was to allow the second-degree amendment to the Reid-Kyl amendment and to allow the Senator from North Dakota to speak about that amendment for 2 minutes and immediately return to the pending business, which is the Baucus amendment with the second-degree amendment, offered by the Senator from Alabama on behalf of myself, pending; is that correct?

Mr. REID. The Senator from Arizona is correct.

The PRESIDING OFFICER. The last request of the Senator from North Dakota is consistent with the order of the Senator from Arizona.

Mr. KYL. Mr. President, I ask the Senator from North Dakota to restate his request. I obviously misunderstood.

Mr. DORGAN. Mr. President, I ask unanimous consent that the amendment proposed by Senator REID and Senator KYL, amendment No. 2764, which had previously been offered but set aside, be brought back so I can offer a second-degree amendment to it. I ask that amendment No. 2764 be the pending business.

Mr. SESSIONS. Reserving the right to object, my concern is that has already been taken care of by Senator REID. It might confuse matters. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 2808 TO AMENDMENT NO. 2764

Mr. DORGAN. Mr. President, I send an amendment to the desk. This is an amendment I had filed. It is called the travel industry stabilization amendment. I offer it as a second-degree amendment to the Reid-Kyl amendment that was offered previously.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2808 to amendment No. 2764.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To preserve the continued viability of the United States Travel industry)

At the end, add the following:

TITLE ____—TRAVEL INDUSTRY STABILIZATION

SECTION __01. SHORT TITLE.

This title may be cited as the ''American Travel Industry Stabilization Act''.

SEC. __02. TRAVEL INDUSTRY DISASTER RELIEF.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the actions described in subsection (b) to compensate eligible travel-related businesses.

(b) ACTIONS DESCRIBED.—

(1) IN GENERAL.—Subject to such terms and conditions as the President deems necessary, and upon application, the President is authorized to issue Federal credit instruments to eligible travel-related businesses described in subsection (c) that do not, in the aggregate, exceed $2,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) TIME FOR APPLICATION.—An application for a Federal credit instrument shall be filed by an eligible travel-related business not later than 1 year after the promulgation of regulations.

(3) TERMS OF CREDIT INSTRUMENTS.—A loan guaranteed under this title may be used exclusively for the purpose of meeting obligations and expenses to the extent that an applicant demonstrates—

(A) business operations were directly and adversely affected by the events of September 11, 2001;

(B) the loan guarantee is necessary to meet such obligations;

(C) the inability of the applicant to meet such obligations or expenses is directly attributable to the impact of September 11, 2001; and

(D) the applicant has the ability to repay the loan.

(c) DEFINITIONS.—In this title:

(1) BOARD.—The term ''Board'' means the Air Transportation Stabilization Board established under the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note; P.L. 107–42).

(2) ELIGIBLE TRAVEL-RELATED BUSINESS.—The term ''eligible travel-related business'' means a business that was injured by the Government shutdown of the airline industry following the terrorist attacks on the United States that occurred on September 11, 2001, and that on such date—

(A) had a contractual arrangement with an air carrier to provide goods or services, including those with a contractual relationship with the Airline Reporting Corporation; or

(B) was a nonaeronautical for-profit business operating at an airport engaged in the sale of consumer goods or services to the public under an arrangement with the airport or the airport's governing body.

(3) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means any guarantee or other pledge by the Board issued under section __02(b) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(4) FINANCIAL OBLIGATION.—The term ''financial obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section __02(b).

(5) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulatory) known as rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(6) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of, or interest on, a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(d) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. __03. ADDITIONAL FUNCTIONS FOR THE AIRLINE STABILIZATION BOARD.

(a) ADDITIONAL FUNCTIONS TO STABILIZE THE TRAVEL INDUSTRY.—The Board shall review and make recommendations to the President with respect to applications for Federal credit instruments submitted under section __02(b).

(b) FEDERAL CREDIT INSTRUMENTS.—

(1) IN GENERAL.—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section __02(b) if the Board determines, in its discretion, that—

(A) the obligor is an entity in a travel-related business for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable travel industry in the United States.

(2) TERMS AND LIMITATIONS.—

(A) FORMS, TERMS, AND CONDITIONS.—A Federal credit instrument shall be issued under section __02(b) in such form and such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Board determines appropriate, provided that—

(i) a loan shall be repaid over a period not to exceed 5 years from the date that the loan is guaranteed under this title;

(ii) the Government guarantee shall cover not less than 80 percent of the value of the loan;

(iii) loan guarantees under this title shall be extended based upon the ability of the eligible travel-related business to repay the loan without regard to collateral; and

(iv) any loan origination fee may not exceed 1 percent of the loan value.

(B) PROCEDURES.—Not later than 14 days after the date of enactment of this title, the Director of the Office of Management and Budget, in consultation with the Board, shall issue regulations setting forth procedures for application and minimum requirements.

(c) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent feasible and practicable, as provided in paragraphs (2) and (3), the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(e) AUTHORIZATION OF FUNDS.—Congress authorizes and hereby appropriates such sums as are necessary to carry out the purposes of this title.

Mr. DORGAN. Mr. President, I will not take 2 minutes because I will speak on this at another time. I indicated previously I support the underlying Reid-Kyl amendment which deals with travel and tourism-related issues. The amendment I have offered is an amendment that deals with some loan guarantees to those businesses that have a connection to the airports and the airlines that had been shut down by the Federal Government post-September 11. Many of them remain in very difficult straits. They face some very difficult financial troubles.

The Federal Government did provide loan guarantees and grants to the airlines. I was supportive of that. But there were ancillary businesses that are related to the airlines and related to the airports that suffered substantial losses as a result of actions by the Federal Government to shut down air service.

This is legislation I have written to address that situation in the form of loan guarantees. I have spent time with my colleague from Nevada, Senator REID, and others of my colleagues who are supportive of this approach.

I offer it as a second-degree amendment because I believe it is appropriately something that should be attached to the Reid-Kyl amendment which I intend to support as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate the spirit in which the Senator from North Dakota proposed the second-degree amendment. I am hopeful we will be able to adopt the Reid-Kyl amendment at a later time.

AMENDMENT NO. 2807

Mr. KYL. Mr. President, what is pending before the Senate is my second-degree amendment to the Baucus amendment, which for those who are interpreting this means we are back on the question of whether we can repeal permanently the estate tax or, as it is frequently called, the death tax.

As we all will recall, last year when we passed the Tax Reform Act, one of the provisions that was incorporated within that bill was a gradual reduction of the estate tax rates and enlargement of the exemption, and finally, in the ninth year, an actual repeal of the existing death tax.

We were joined in a bipartisan coalition to support that. There were literally scores and scores of organizations—and I am going to ask unanimous consent after a bit to print in the RECORD the list of organizations that supported the repeal of the death tax—and we even defeated an amendment of Senator CONRAD of North Dakota that would have put the Senate on record as saying we should not make it permanent.

Clearly, the intention was to make it permanent; the desire was to make it permanent. I do not think anybody would have stood before the Senate and said we wanted to repeal the estate tax for 1 year. They would have been laughed out of the body. Yet that is precisely what the effect of our action was.

There is a rule in the Senate that does not allow us to work in more than a 10-year window without a 60-vote majority. There is a rule that required us to change the procedure, and by making the procedure for 10 years, the effect is to sunset the repeal. That means we go right back to where it was last year with a 60-percent rate of the death tax and only a $675,000 exemption.

If one wants to see how this works, in the year 2010 you do not have to pay any death tax if you die. It basically pays you to die in that year, but do not try to live a day into the next year because you are then going to have to pay the entire death tax as it existed in 2001.

We go way back, in other words, to a punitive, destructive death tax. Clearly, we did not mean for this to be the way it was. Clearly, we would like to make it permanent, and this is the time to do it because there is significant evidence that making the death tax repeal permanent will significantly stimulate the economy and create jobs. That is the reason for bringing it up at this time.

We are talking about the stimulus package. The President is talking about creating jobs, and by repealing the death tax permanently we can achieve those objectives.

How is that so? In simple terms, people still have to plan for the death tax. They still have to buy the insurance. They still have to pay the lawyers. They still have to pay the estate tax planners, the accountants, and all the rest of it unless they are absolutely sure they are going to die during one of the 365 days of the 10th year. If they cannot be sure they are going to die during that period of time, then they need to plan because the tax is back in effect.

Who, after all, except someone who would be deliberately taking their life, can predict when they are going to die? One sure does not want to be lucky enough to live beyond the 10th year because then they are going to get stuck with the death tax with its punitive rates, just as it was last year. That is why there is a huge expense involved in the existing law, and that expense every year, by farmers and small businessmen and other people in this country, is money that is spent on an unproductive enterprise that could be spent in creating jobs.

Let us get to a couple of specifics, and then I will ask some of my colleagues to join in this debate. A December 1998 report by the Joint Economic Committee concluded the existence of the death tax in this century has reduced the stock of capital in the economy by nearly half a trillion dollars. By repealing the death tax and putting those resources to better use, i.e., investment, the Joint Committee estimates as many as 240,000 jobs could be created over the next 7 years, and Americans would have an additional $24.4 billion in disposable personal income. That is stimulus.

You want to stimulate the economy? You want to create jobs? You want investment in capital and other businesses? Permanently repealing the death tax will do that.

Last year, Dr. Wilbur Steger, a Ph.D. president of CONSAD Research Corporation, and an adjunct professor of policy science at the Heinz School of Carnegie Mellon University, testified before the Senate Finance Committee and disputed the death tax supporters' arguments that only 2 percent of Americans are affected by the tax. Rather than affecting less than 500 family businesses in a typical year, he said the total number of taxable estates that consist largely of family-owned businesses likely exceeds 10,000 families annually. He went on to state an immediate death tax repeal would provide a $40 billion automatic stimulus to the economy.

So what we could do best to stimulate the economy and create jobs is to ensure that the death tax repeal we voted for last year is in fact made permanent.

I am going to provide some additional evidence that we can create jobs and stimulate the economy with the permanent repeal of the death tax, but at this time I yield to my colleague from Oklahoma, who I know wanted to make a few remarks before he has to leave.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to be made a cosponsor of Senator KYL's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, this amendment is a very positive amendment. The Senator from Montana, Mr. BAUCUS, introduced an amendment that would add another $2.3 billion in emergency spending for agriculture. We debated that last week. We defeated it. We defeated it on a budget point of order. I made that motion because we have had a lot of emergency spending for agriculture. As a matter of fact, the last couple of years it has just ballooned. We averaged less than a billion or two for decades, and then all of a sudden the last couple of years we start doing $12 billion, $13 billion, $14 billion of emergency spending.

The Senator from Montana said we have more problems; let's add another $2 billion or $3 billion—not in the context of the farm bill or the budget but just another couple billion dollars. Now that we are in deficits, I question that. My colleague from Arizona offered an amendment that my farmers have been talking to me about for the last 20-some years, and that is to repeal the death tax. Why in the world should agriculture, or anybody who has a business, have to sell the business because somebody happens to pass away? Somebody passes away and all of a sudden the Government says it wants 55 percent of their farm, 55 percent of their business. I happen to think that is wrong.

In the tax bill we passed last year, we reduced the estate tax and we increased the exemptions. We increased the exemption from $675,000 to a million dollars beginning January 1 of 2002. So that is a positive thing, a good thing. Over the course of the tax bill, over the next 10 years, we eliminated the death tax, increased the exemption from $1 million to $2 million to $4 million, where in the year 2010 the death tax is repealed. That entire bill was sunsetted. People who do not follow the Senate and do not know our rules ask why did we sunset it? We sunsetted it because of the reconciliation bill. The reconciliation bill, by law, has to be within a 10-year timeframe. We could not make permanent tax law changes. We could change the law in 10 years. So that is exactly what we did.

The Senator from Arizona says in this particular case the sunset does not work. When people are doing estate planning, they want to know what their tax liability is when they die and, if they have an estate, they can plan accordingly. Maybe they can give their property to a son or a grandson, a grandchild, a granddaughter, or maybe they want to give it to a trust or they want to give it to a charity or they want to break it up. Whatever they want to do, they should have those options. They should not be faced with the current situation of well, OK, we are going to reduce the death tax for years, increase the exemption up to $4 million, in effect reducing the death tax, but in the year 2011 it reverts back and all of a sudden you are looking at an enormous tax rate, a tax rate that would be as high as 50 percent. That is wrong.

So the Senator from Arizona says: Let us fix it. Let us make it permanent. That was the intent of the bill that we passed last year. I believe that is where the votes are in the Senate. If they believe in free enterprise, if they believe in agriculture, if they believe in family farms, if they do not want an enterprise, whether it be a farm or a business, if they do not want somebody to have to sell it because someone passes away, to give Government half

of it, then support the amendment of Senator KYL.

If my colleagues really want to do something, let us make this tax change, which, because we were under reconciliation last year had to be temporary, had to be sunsetted. We are not under reconciliation now so we do not have those constrictions imposed upon us as Members of the Senate. We are not under those rules, so I encourage my colleagues to not say, oh, yes, they supported elimination of the death tax, and in the year 2011 it is reinstated at the previously higher rates. That would be grossly unfair and grossly inequitable.

For people who are trying to do estate planning and trying to estimate what their tax liability would be for their kids or for their grandkids, it is tremendously unfair. It might be great for the estate lawyers, for estate planners and others because the more Congress changes this, the more they get to do in writing wills and rewriting estates and how planning should be done. So the way to solve this problem is to pass the amendment of the Senator from Arizona. That is the best thing we could do for agriculture, not another $2 billion, $3 billion in emergency assistance.

Every Congressman and every Senator knows if we could go back and tell our agricultural community, the Farm Bureau, the farmers union, the wheat growers, the cattlemen, and so on, that we repealed the death tax, we know we would get a standing ovation because of the very fact that many of those farms are second and third generation. They are wealthy on paper but they are cash poor.

So if they pass away now, they know their survivors will have to sell the operation to pay the death tax, to pay the tax that will be owed the Federal Government. When the Government comes in and says they want half, they will have to sell it; they will have to break it up. In the process, it will cost a lot of jobs.

The amendment of Senator KYL creates jobs. It will help maintain small businesses so they do not have to break up. It will help maintain farms and ranches so they will not have to break them up into smaller units or sell them for the taxman.

So I again compliment my colleague from Arizona. I think he has an excellent amendment. He has added it to the amendment of Senator BAUCUS. I encourage people on both sides of the aisle to vote in favor of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be named as a cosponsor of Senator KYL's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, when I first came to the Senate and I met with farm people in my State, this was their No. 1 issue—to eliminate the death tax. It is savaging closely held enterprises all over America, particularly farms. It is something that touches people in a very real way. The way this elimination has occurred as part of the budget reconciliation, as Senator NICKLES so ably described, we will have elimination of the death tax 1 year, and a reimposition of it the next year, leaving estate planning problems for people trying to wrestle with that. It has human consequences.

I remember being on an airplane not too long ago with a professional woman. She told me about her grandfather dying back in the 1980s. A tax change in the death tax was passed during the Reagan years. It was to take effect January 1. The family was home for Christmas. He was dying of cancer. He had terminal cancer. Each morning he asked what day it was. He died 11 a.m., January 1—his last contribution to his family. This is personal. It is real. It savages businesses.

Let me try to explain why I believe we have a particularly pernicious consequence as a result of the death tax that has not been sufficiently discussed and is causing damages to our economy far greater than a lot of people thought. This is the reason. I thought about farmers in Alabama. Maybe they own a couple thousand acres, and maybe some of that land is near an airport or town and the value on paper is high but they don't want to sell it. Compare that to an international paper company that may own 600,000 acres of land, 200,000 or 100,000 acres of land. They compete against one another. If they are timber producing, and both grow timber, they compete against one another.

The big multinational corporation that does business all over the world is never impacted adversely by the estate tax. People who own stock in it may be, but not that corporation. But the individual competitor, the competitor of the big international corporations, builds up a little capital, equity, and realizes some success, and they can get savaged, each generation, by a 50-percent tax. This makes them uncompetitive. Is there any doubt why farmers getting to the end of their lives, small businessmen wanting to pass on their business to their family, have to sit down and discuss what they are going to do? They have to sit down and decide if they can pay that generational tax and still operate the business. What if the business has a lot of investment, a lot of capital, hiring a lot of people, but they do not have a lot of cash? How can each generation pay this huge death tax to the Government? Yet the big business competitor, a broadly held international corporation, with which they compete, does not ever become impacted by the death tax.

That is happening in America. We need to encourage locally owned corporations. We need to nurture them, not oppress them. We need more competition in the American economy.

It is troubling that virtually every bank in my home State of Alabama has been sold and bought up by a bigger bank, and they get bought up by bigger banks. Why? One reason is families who used to routinely own banks, that were tied to the community, supporting Boy Scouts, schools and the United Way, cannot compete. They are looking at the death tax coming down on them. They figure they can protect themselves against it more effectively by selling off their small business to a larger corporation that does not have to pay that tax.

I thank Senator KYL for his leadership. I believe we ought to consider that the death tax is an anticompetitive activity that hurts competition by damaging small businesses and farms in a way that does not occur to larger, wealthier international enterprises.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I ask unanimous consent to have printed for the RECORD a 3-page listing of a variety of organizations, all of which support repeal of the estate tax.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE FAMILY BUSINESS ESTATE TAX COALITION

Air Conditioning Contractors of America, American Business Press, American Consulting Engineers Council, American Council for Capital Formation, American Family Business Institute, American Farm Bureau Federation, American Forest and Paper Association, American Forest Resources Council, American Hotel & Lodging Association, American International Automobile Dealers Association, American Supply Association, American Wholesale Marketers Association, American Vintners Association, Americans for Fair Taxation, Associated Builders & Contractors, Associated Equipment Distributors, Associated General Contractors, Association for Manufacturing Technology, Citizens Against Government Waste, and Citizens for a Sound Economy.

Communicating For Agriculture, Construction Industry Manufacturers Association, Farm Credit Council, Fierce and Isakowitz, Food Distributors International, Food Marketing Institute, Guest & Associates, Independent Community Bankers of America, Independent Insurance Agents of America, International Council of Shopping Centers, Kessler & Associates, National Association of Beverage Retailers, National Association of Convenience Stores, National Association of Home Builders, National Association of Manufacturers, National Association of Plumbing-Heating-Cooling Contractors, National Association of Realtors, National Association of Wholesaler-Distributors, National Automobile Dealers Association, and National Beer Wholesalers Association.

National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council, National Electrical Contractors Association, National Federation of Independent Business, National Grocers Association, National Licensed Beverage Association, National Lumber and Building Material Dealers Association, National Marine Manufacturers Association, National Newspaper Association, National Restaurant Association, National Roofing Contractors Association, National Small Business United,

National Taxpayers Union, National Telephone Cooperative Association, National Tooling & Machining Association, National Utility Contractors Association, Newspaper Association of America, Ocean Spray Cranberries, Inc, and Organization for the Promotion & Advancement of Small Telecommunications Companies (OPASTCO).

Painting & Decorating Contractors of America, Petroleum Marketers Association of America, Printing Industries of America, Rock Hill Telephone Company, Safeguard America's Family Enterprises, Society of American Florists, Southeastern Lumber Manufacturers, Texas and Southwestern Cattle Raisers Association, Textile Rental Services Association, Tire Association of North America, United States Telecom Association, U.S. Business & Industry Council, U.S. Chamber of Commerce, Wine and Spirits Wholesalers of America, and Wine Institute.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL (71)

Air Conditioning Contractors of America, Alliance of Independent Store Owners and Professionals, Alliance of Affordable Services, American Bus Association, American Consulting Engineers Council, American Council of Independent Laboratories, American Machine Tool Distributors Association, American Moving and Storage Association, American Nursery and Landscape Association, American Road & Transportation Builders Association, American Society of Interior Designers, American Society of Travel Agents, Inc., American Subcontractors Association, Associated Landscape Contractors of America, Association of Small Business Development Centers, Association of Sales and Marketing Companies, Automotive Recyclers Association, Bowling Proprietors Association of America, Building Service Contractors Association International, and Business Advertising Council.

CBA, Council of Fleet Specialists, Council of Growing Companies, Cremation Association of North America, Direct Selling Association, Electronics Representatives Association, Health Industry Representatives Association, Helicopter Association International, Independent Community Bankers of America, Independent Electrical Contractors, Inc., Independent Medical Distributors Association, International Association of Refrigerated Warehouses, International Association of Used Equipment Dealers, International Business Brokers Association, International Franchise Association, Machinery Dealers National Association, Mail Advertising Service Association, Manufacturers Agents for the Food Service Industry, Manufacturers Agents National Association, and Manufacturers Representatives of America, Inc.

National Association for the Self-Employed, National Association of Plumbing-Heating-Cooling Contractors, National Association of Realtors, National Association of RV Parks and Campgrounds, National Association of Small Business Investment Companies, National Community Pharmacists Association, National Electrical Contractors Association, National Electrical Manufacturers Representatives Association, National Lumber & Building Material Dealers Association, National Ornamental & Miscellaneous Metals Association, National Paperbox Association, National Private Truck Council, National Retail Hardware Association, National Tooling and Machining Association, National Wood Flooring Association, Painting and Decorating Contractors of America, Petroleum Marketers Association of America, Printing Industries of America, Inc., Professional Lawn Care Association of America, and Promotional Products Association International.

The Retailer's Bakery Association, Saturation Mailers Coalition, Small Business Council of America, Inc., Small Business Exporters Association, SMC Business Councils, Society of American Florists, Specialty Equipment Market Association, Tire Association of North America, Turfgrass Producers International, United Motorcoach Association, and Washington Area New Automobile Dealers Association.

Mr. KYL. Mr. President, let me give a sense of the businesses and organizations involved—everything from the American Council for Capital Formation, American Family Business Institute, Hotel & Lodging Association, the National Automobile Dealers Association, Citizens Against Government Waste, Citizens for a Sound Economy, a long list of agricultural organizations, Independent Insurance Agents of America, National Association of Home Builders, National Association of Manufacturers, National Cattlemen's Beef Association, National Corn Growers Association, National Taxpayers Union, Chamber of Commerce, and on and on, a whole number of businesses and organizations. As we recall from the debate we had last year, a group of environmental organizations, as well, were involved because of the pro-environmental ramifications of repealing the death tax permanently.

It is very important to focus for a moment on why we are proposing this amendment on this bill at this time. President Bush's budget for the next fiscal year incorporates a permanent repeal of the estate tax. This is something the President knows will benefit our economy and create jobs. That is why it is included within his fiscal year 2003 budget sent here yesterday. This is propitious timing. We have the opportunity to act on this now.

Earlier I indicated the reason this has such a stimulative effect is that there is such a large amount of money being spent on lawyers and estate planning and insurance that could be more productively put into investment in companies for the creation of jobs.

To give an idea of the magnitude of the money we are talking about, I will cite a study done for last year. Alicia Munnell, a member of President Clinton's Council of Economic Advisers, estimates the cost of complying with death tax laws is roughly at the same magnitude as the revenue raised by the tax itself.

In 1998, that was about $23 billion. In other words, for every dollar the death tax raises for the Treasury, it almost costs Americans that same amount of money to prepare to deal with the death tax when their time comes. It is literally a double tax. Half of it is totally unproductive.

I am a lawyer. I don't mean to suggest that paying money to lawyers is a bad thing. But one can hardly argue that it creates new jobs. Perhaps one could say we need to have more lawyers. As long as we keep this law on the books and we do not permanently repeal the death tax, we can put a few more lawyers to work. It is a stretch to argue that justifies keeping this unfair law on the books.

No, the reality is that we can create a lot more jobs, 240,000 jobs over the next 7 years, by a repeal of the estate tax. We can provide another almost $25 billion in disposable personal income, according to the Joint Economic Committee. These numbers do not lie. We have an opportunity to do something positive for our economy, for job creation, for investment. That is why the President has included this permanent repeal in his budget for this year.

Let me show how this works and how unfair it is. Somebody dies in the year 2009. None of us can predict when we will die. If you die in the year 2009, those in your family who succeed you will be faced with a potentially high 45-percent death tax rate. The good news is they have a $3.5 million exemption because that is the way we structured it under our tax bill last year. If you are lucky enough to die in the year 2010, assuming that dying is a good thing—when I say ''if you are lucky enough,'' I don't mean it that way—if you can avoid dying in the year 2009 and stretch your life into 2010, you will be able to have your loved ones avoid the death tax entirely as a result of the bill we passed last year. However, if you are able, through good medicine and health care and the like, to extend your life to the following year, the year 2011, your family is in a world of hurt. Because you lived a little bit longer, they are going to go back to the days when we had a 60-percent death tax rate and an exemption of only $675,000.

What is a sensible small business person, farmer—whoever—going to do, given the fact that it is pretty difficult to predict when you are going to die? And you clearly do not want to take the chance that the only year that you are likely to die in is 2010. What you are going to do is pay lawyers and accountants and estate planners and buy the insurance that needs to be purchased to reduce that death tax liability to as little as possible. That is the expenditure we are talking about that is unproductive. That is to say it does not create any new jobs, it doesn't stimulate the economy; all it does is continue the status quo of a death tax that is going to take effect when you die.

This is the reason it is not only unfair, but what we accomplished last year is really, in some respects, a cruel hoax. I know a lot of people I talk to back home believe we actually repealed the death tax. There was some bragging about the tax bill last year. It was a great bill. The problem with it is, as the Senator from Oklahoma said, because it was done as part of a reconciliation package, it could not exceed a 10-year time span.

I have tried to go back home and explain to people what we did was really good. We established the principle that we did not want the death tax anymore and we had a bipartisan coalition of

Senators who voted overwhelmingly for that. But we now have to finish the business we started. As the President is proposing in his budget, we have to make that repeal permanent. Otherwise, we not only have a very unfair situation, but we have a very inefficient and I would say uneconomical situation here.

We have the opportunity to put that money to work that otherwise would simply go—again, I don't mean to denigrate lawyers—to pay those lawyers to figure out how to enable you to maximize the reduction in your death tax when you die.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. I am happy to yield.

Mr. SESSIONS. First I want to express my personal appreciation to Senator KYL for his leadership on this issue since I have been in the Senate. There is no one here who understands it more than he, or has fought more effectively to see it become more a reality, the elimination of the tax.

But, I say to Senator KYL, what I was thinking about was the circumstance of a small business seeing a death on the horizon and a death tax coming up. The fact that they know they have to make a payment of significance to Uncle Sam—would that not perhaps cause them to hesitate to invest in new equipment, to modernize or expand their business, knowing that that might cause them to use up their cash or even borrow money, and in fact make the economy less vibrant than it otherwise would be?

Mr. KYL. Mr. President, I say to the Senator from Alabama, that is another entirely separate argument for eliminating the tax and making its repeal permanent. The Senator is absolutely correct.

In addition to the wasteful money we spend trying to avoid the liability or reduce it as much as possible, rather than putting that into productive assets, the Senator is pointing out that because of the possibility—it is almost like a black cloud hanging over your head—if you think you are going to die, you are not going to make that new investment, you are not going to revitalize your plant and equipment or hire that other team that is going to produce a new product, or maybe go out of your way to market the product—all of those things that will be an investment in our economy. You are going to defer that because you know you are going to need it for something else; namely, to pay the grim reaper, because you know you are going to pass away.

I think of an example back home of a company that became very successful. One entrepreneur moved to our State and over time built up a wonderful business employing over 200 people. He was a great contributor to the charities in our community. He was one of those pillars of the community that you just like to think of but he died. His family had a terrible time. The tax liability there was so great that they ended up having to sell this business.

The idea of a death tax is to prevent an accumulation of wealth. That is the theory of it. What happened here? They had to sell to a big company, the kind of big corporation the Senator from Alabama was just talking about. Instead of this small—I would say, with 200 employees, it is getting to be a medium-size business, but it was still a sole proprietorship basically. But instead of having the business in our town, employing all those people from town, contributing to the charities and the local economy, and so on, this big corporation came in. Are they still employing that number of people? No. Are they contributing to the community as did our friend Jerry? No. These people are not making the kind of investment—and I don't denigrate them at all, but they are trying to run a business, and that is fine, but there is a difference here.

The small businessman who built up his business continued to plow everything he had back into the business, which is exactly the point the Senator from Alabama is making here. You put it back into the business so it can continue to grow because it is a family-owned business. You do not have to take out all the money and send it someplace else. Because they did that, they were asset rich and cash poor. You do not want to find yourself in that position if you are going to die, because you cannot pay the taxes. That is why his family had to end up selling the business.

Mr. SESSIONS. I would like to follow up on that. The company that bought them, bought your friend Jerry's business, presuming they were a broadly held stock corporation, maybe of national size—that corporation would never have to plan its economic future with the fear of having to pay an estate tax because corporations do not pay death taxes; is that correct? Isn't that a factor, an economic incentive we have created for small businesses to sell out to big businesses when really they ought to be competing against them and keeping them honest?

Mr. KYL. I say the Senator from Alabama is exactly correct. It is an unfairness for the small business because the small businessmen are taxed in this fashion. The big corporation—I am all for big corporations, too, but they don't have to worry about this kind of thing. So there is, in effect, a perverse incentive working here, but it is one of the things that is not only bad for the economy but it makes it unfair. It is not really an American way of looking at things, to my way of thinking.

If the Senator from Nevada would like to speak, we have had our chance here, so the Senator is welcome to the floor.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, I hope people are beginning to see what Senator DASCHLE has put up with now for months on the stimulus package—months. It is never quite right. There is always something just a little bit lacking.

Remember, there were rules set down for what a stimulus package should be. I may not have it down exactly right, but it is supposed to be fiscally responsible, supposed be short term, and would have no effect on the deficit. That is what we were supposed to do to get a stimulus package. And we have tried very hard.

But what are we working on today, now, to divert attention from what the underlying Daschle bill does? We are now talking about something 10 years from now. I don't know if any of the unemployed are watching. There are probably some watching TV because they are not working, so maybe some of them slipped onto C–SPAN. I hope the unemployed understand what is going on here. The minority is now focusing again on the wealthy. We can have all the stories about the poor family farmers, and I understand that. I think the estate tax needs some revision, and we were willing to do that, to work with the minority to do that.

Say what you want to say. This affects the top one-half percent of the people in America as it relates to income. We were willing to change it from the standard before. But no matter how you twist and turn it, this relates to people who have assets—a lot of assets.

How do the unemployed feel? We have given them nothing—zero. Since September 11, we have taken care of the airlines. We have focused on the insurance industry. We have done all kinds of things for corporate America but very little for consuming America.

We talk about meeting the qualifications for having something stimulative. Studies have shown that every dollar invested in unemployment insurance produces $2.52 in gross domestic product. Those unemployed out there should understand that we want to help. We have tried to help.

Part of Senator DASCHLE's legislation deals with extended unemployment benefits. During the previous Bush administration, we extended unemployment benefits five times. We did it during the Reagan years. But now we are not doing it. We are not messing around with something to help the unemployed.

In Nevada, over 100,000 jobs have been lost because of September 11. Indirectly, in the service industry—people who wait tables, waiters, waitresses, park cars—over 30,000 jobs were lost. Those people are now without unemployment benefits. Their time has run out.

I think we should extend it. They did not do anything wrong. We have done it in the past. It is not as if they are not willing to work. They are on the union lists. If something picks up, they will be rehired. In the meantime, they need help.

I was a big supporter of Welfare to Work. I think we did good work during

the Clinton years to get Welfare to Work. As you recall, President Clinton didn't accept proposals that were sent to him. He kept vetoing them until he got it just right. He improved it by his veto.

There are people in Nevada who are working in the service industry. Some of those 30,000 people are people who went into Welfare to Work. These people may be dishwashers. They may be people who assist maids in cleaning up the hotel rooms in Las Vegas and Reno. They may be someone working in some other rather low-paying job, but they get paid certainly a lot better than being on welfare. Those people are out of work and haven't been on the job long enough to qualify for unemployment benefits. We want to give them some help. But no, this isn't quite the right time to do this.

There was the Department of Labor study done in 1999. This is not some new study to justify an unemployment insurance extension. This was done in 1999. Every dollar invested in unemployment insurance extension generates $2.52 in gross domestic product.

Another study by the Department of Labor estimated that unemployment insurance mitigates real loss in gross domestic product by 15 percent. In the last five recessions, the average peak number of jobs saved was 131,000.

Joseph Stiglitz, co-winner of the Nobel Peace Prize in economics last year, stated that we should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal but also the most effective. People who become unemployed cut back their expenditures. Giving them more money directly would increase expenditures.

But here we are not doing what is called for by the President of the United States, saying that if we are going to do something on an economic recovery plan, it should be short term, fiscally responsible, and it should do anything for the deficit. This amendment fails on all three.

The Congressional Research Service concurs with Joseph Stiglitz. They say that extending unemployment compensation is in fact likely to be a more successful policy for stimulating aggregate demand than any other tax or transfer charge.

There is a time and place to debate whether or not the estate tax repeal should be made permanent. I acknowledge that. There is a time and place to do it. But it is not on this legislation. This is another effort to allow the minority and the President of the United States and the people around him to blame Senator DASCHLE and the Democrats, that we didn't do anything to pass an economic stimulus package.

But the American people aren't that stupid. They know that we have done it. It was laid out here yesterday in detail by Majority Leader DASCHLE. He has tried to get an economic stimulus package passed.

What did he ask for? What does the underlying bill call for? It calls for extended unemployment benefits. It calls for tax rebates for those people who didn't get tax rebates during the first round. Remember, the most successful part of President Bush's tax cut program was our program that he stole from us. I was glad he did. But that was our program. We called for rebates. That was us. We asked for that because we knew those people would spend that money quickly. They have.

Also, part of Senator DASCHLE's legislation was bonus depreciation. What is that? The bill would increase the bonus depreciation deduction for the cost of any capital asset purchased between September 10, 2001, and September 11, 2002, and it would be certified by the end of 2002.

One of the amendments offered by the chairman of the Finance Committee, Senator BAUCUS, extended that. So Senator DASCHLE's 1-year proposal has been extended. The bonus depreciation up to 30 percent of the cost of the asset would be in addition to the normal first year depreciation. Leaseholds would qualify for the bonus depreciation deduction. This would really help small business. It would help big business, but it would really help small business. That is why the majority leader included this in his legislation.

Finally, a provision in his legislation would provide temporary increases for a Federal Medicaid matching rate, called FMAP. The Federal Government matches between 50 and 83 percent of the cost of Medicaid in each State depending on the State's per capita income. Medicaid matching rates for fiscal year 2002 are based on a State's per capita income in 1997, 1998, and 1999, in which the economy was very strong. The most recent economic trends do not reflect a new matching rate. Senator DASCHLE wanted to adjust that.

Why did he pick these four things: Extended unemployment benefits, tax rebates, bonus depreciation, and fiscal relief for the States? The reason he did it is people believed these things would be stimulative to the economy. But he narrowed it down to four things he had heard speeches about given by the majority and the minority in the Senate saying we think this should be done. There was general agreement on the four things he put in this legislation. But, no, it is not quite the right time. No matter what happens, it really is not quite the right time to do it.

Now we are in a debate about making the estate tax repeal permanent. Let us see. Does that stimulate the economy? No. Is it short term? No. Is it fiscally responsible? No. But again it deals with the rich people. I am all for helping rich people. I think it is something we have an obligation to do. I think helping rich people helps everybody. But there is a limit.

I say to those unemployed watching C–SPAN today, keep in mind that we are trying to help. We have tried and tried and tried. This has been going on for months now. On this particular legislation, we tried again after the Christmas break, starting January 23. This is the third week we have been on this. It is never quite right. There just isn't anything we can quite do to get to finality.

Under the Senate rules, it is not like the House of Representatives. If you have one more than a majority over there, you can ram anything through. It is like the British Parliament. When you are in the majority in the British Parliament, you march down the road and get anything you want. But that is not the way it is in the Senate.

For 200-plus years, the Senate has had certain rules. They work well. But it does not make things easy in passing legislation. And you usually have to have 60 votes.

Senator DASCHLE thought he had 60 votes for everything that was done here. But, no, it is not quite the right time to do an economic stimulus package today. Maybe tomorrow. Maybe the next day.

But what we are faced with is a farm bill we would like to complete, we have election reform we would like to complete, and we have energy legislation we would like to work on prior to a week from this Friday. It leaves the majority leader with very few alternatives because it is obvious this is a slow walk—this has been a slow walk since January 23—because no matter what the leader does, it is not quite good enough.

So I respect the feelings, the passion that my friend from Arizona, Mr. KYL, has. He is very good at expressing how strongly he feels about that. I understand the strength of his feelings. My counterpart, Senator NICKLES, I understand the strength of his feelings in repealing the death tax. The manager of the bill today, Senator SESSIONS from Alabama, makes a very good point on why he feels as strongly as he does. And I appreciate that.

But I say to my friends—and all three are my friends—it is so obvious what is happening here. This stimulus bill, which we have been trying to pass since January 23, is going no place. Everyone can see that. We are going to have a cloture vote on it tomorrow to try to get 60 votes. It seems pretty clear to me the minority is not going to allow debate to stop on this legislation. That being the case, it is up to the majority leader how we will proceed. He is the only one who has that decisionmaking power.

We have other things we have to get to, such as the farm bill. Nevada is not really a State that depends heavily on agriculture. We grow garlic. We are the largest producer of white onions in America. We grow a few potatoes. We have many cows. We have some large dairies to supply some very thirsty people in Las Vegas. We even supply Carolina some milk. But we are not a State dependent on agriculture as are so many States.

But the farm bill is very important to many Senators. Of course, that is something we could not complete. We

could not stop the filibuster on that at year's end.

We thought we had a bipartisan agreement on election reform, and I think we do. There has been tremendous work done by Senator DODD, Senator BOND, and others—bipartisan legislation—so we don't have the problems we had in the last Presidential election.

I am not necessarily picking on Florida. I think if a lot of States had been looked at with a magnifying glass like Florida was looked at in the last election, we would all have problems. But this is a bipartisan effort to try to make that no longer the case—that we would have certain standards for elections and that the Federal Government would assist States in obtaining and then maintaining those standards. So we need to do that.

Of course, energy legislation is something for which there has been a hue and cry from the minority, and rightfully so. We need to get to that legislation. Senator DASCHLE, last year, made a commitment that we would get there before the Presidents' Day recess. The Presidents' Day recess starts next Friday, so that leaves very little time.

With all due respect to the fervency of the feelings of those who want to repeal and make permanent the death tax, keep in mind that at this stage it is only an effort to divert attention from what we are really trying to do; that is, pass a bill that will stimulate the economy, will be short term, will have no effect on the deficit, and be fiscally responsible—not legislation that, once again, has the unemployed getting zilch, zero, nothing, and the wealthy, again, getting the largest amount that we throw to them. And even though they deserve attention—and we have given them plenty—I think the time has come to help those people who need help: the unemployed, the underemployed, small business people, and helping States that are having difficult times because of the Medicaid matching funds.

Of course, as I have indicated earlier, we really need to do something to help small business. And in the process, we would be helping big business with this bonus depreciation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank my colleague for his speech. I think we all share some frustration—obviously, from different viewpoints—about the stimulus bill. I would just like to suggest there is a solution to the problem; and that is, we could have a unanimous consent agreement where we would let our Democrat colleagues put together a stimulus package, we would put together a stimulus package, we would have a unanimous consent agreement to vote on both of them, and if they both got over 50 votes, then the one that got the highest number of votes we would take to conference with the House. And we would, therefore, be on our way to have a stimulus package.

Our Democrat colleagues are not going to accept that proposal because the problem is, we have a majority vote for a bipartisan agreement that was put together by Senator SNOWE and Senator BREAUX it has nice rhythm: SNOWE and BREAUX and it is supported by moderates on both sides of the aisle and has very strong support among Republicans in general.

I remind my colleagues the sad history of the stimulus package is that the President met with Democrats and met with Republicans, took some Democrat ideas, took some Republican ideas, and made a bipartisan proposal, which I believe the President earnestly thought, in the aftermath of September 11, we would adopt.

What happened—almost immediately—is that our Democrat colleagues said: We will take the half of the bill that is ours, but not the half of the bill that came from the White House and from Republicans.

We can go back and forth and make our arguments. We have clever people on both sides of the aisle. We can argue we don't see any stimulus in the Democrat package. Obviously, they can make the same argument. I don't know who would be convinced on either side.

But when that effort failed, Democrats and Republicans in the Senate got together and put forth the only bipartisan proposal for a stimulus package that has been put forward in the Senate. At that point, we clearly had more than 51 votes for a stimulus package. This was way back before Congress adjourned in December.

In an extraordinary action, the President said: Take that bipartisan compromise. Let's agree on it. I will sign it into law. He asked the House of Representatives to take a bill written by the Senate, to introduce the bill in the House, and pass it, and send it to the Senate.

At that point, as the session drew to a close last year, the majority leader, Senator DASCHLE, knew that the bill that had been passed by the House, and had come over here, and was waiting at the desk, that there were a majority of the Members of the Senate—Democrats and Republicans—who would vote for that bipartisan proposal if it were brought to the floor of the Senate.

No one can dispute those facts.

What did the majority leader do? He refused to bring it to the floor of the Senate.

When we came back into session, the majority leader took three provisions from the President's proposal—some in a slightly different form than the President had put in his proposal—because Democrats had proposed them, threw the rest of the package out, and then made up a fourth proposal that no one had seen, and brought that forward as a stimulus package.

He has every right to do that. He is the majority leader. But we have a right to offer our amendments. We have offered amendments. Some have been adopted. Some have been rejected. We have had an orderly debate. We have been willing to set time limits on votes. And now the Democrat floor leader says that we are getting nowhere and that this is not a real effort.

We ought to have an opportunity to vote on a bipartisan proposal. I believe it would pass. It looks as if we are not going to do that.

We want an opportunity to vote on some things we believe will stimulate the economy. I will, before I address the amendment before us, sum up the point I made earlier.

The majority leader has some choices. He can bring up his bill and give us the right to try to improve it. That is what we are trying to do. He says now he is going to pull down the bill because we are trying to improve it. He has the right to do that.

A second alternative is to bring up the bipartisan bill and give Senator DASCHLE a chance to amend it. I think we can work out an agreement to do that, but I do not believe Senator DASCHLE is going to do that because the bipartisan bill will pass.

A final proposal, which I repeat in case anybody is interested in a compromise, is let the Democrats sit down and write the best bill they can write. We are going to take the bipartisan bill. It is not the best bill we can write, but it is a bill that has over 51 votes. It is not wonderful, but it would help the economy both in the short term and in the long term. We are going to take that bill. Let the Democrats bring forward their proposal as to how we stimulate the economy, and let us bring ours forward. We will vote on both of them, and the so-called ''king of the hill'' parliamentary procedure that we could put into place by unanimous consent is the one that gets the most votes will be deemed passed, and then we can go to conference with the House, and perhaps we might get a stimulus bill.

I do not see how anybody can say that is unfair. Senator DASCHLE could get a vote on his stimulus package. We could get a vote on the bipartisan one, and majority would rule.

I do not think that is going to happen because the Daschle package would get fewer votes. We all know it. The bipartisan bill would pass, and I believe that would be objected to.

What does this all boil down to? The one bill that can pass the Senate, the majority leader will not allow to be voted on.

You can say that is a good thing and you can say that is a bad thing, but it is a fact, and that is the impasse in which we find ourselves.

We now have a bill that very few people are for, and we just want to try to amend it.

We have an amendment before the Senate which is a very important amendment. When we passed the tax cut last year, we faced a parliamentary problem that most people do not understand; that is, we were operating under a process called reconciliation. That is a budget process. It means the things

you do under that process can extend no longer than the budget unless you can waive a point of order and get 60 votes.

Some will sadly remember that the tax cut received 58 votes in the Senate. We did not have the votes to waive this process so the tax cut could last only as long as the budget, and the budget was only 10 years long.

It produced this incredible situation that stuns the American people when we tell them. The tax cuts that we passed—eliminating the marriage penalty, eliminating the death tax, reducing tax rates dramatically—all of those provisions go away in 10 years.

Nothing is more destabilizing to the economy than having a temporary tax system. There is no doubt that we affect behavior when people do not know what the system is going to be in the future. This is especially true with regard to the so-called death tax.

As our dear colleague from Arizona has pointed out very clearly, we have this incredible anomaly that if you die, depending on in what year you die, between now and the 10th year of the tax cut, the taxes you pay will vary. If you die in the 10th year, your family will inherit your business or your farm or your assets tax free. If you die in the 11th year, they are going to have to sell your business or sell your farm, sell or mortgage your life's work to give the Government 55 percent of every dollar you accumulated worth of value on your farm, your business, your assets in your lifetime.

Needless to say, that is an absurd circumstance. I, quite frankly, am concerned that people who have some kind of serious illness might actually choose to end their lives in the 10th year. That is not beyond my imagination.

We had a strong consensus on repealing the death tax. I know our dear colleague talked about rich people, but, we had a consensus that if somebody works their whole life, they pay taxes on every penny they earn and they skimp, they save, and they sacrifice and they build up a family farm, it is not right that their children have to sell the family farm to give Government a double taxation by paying 55 cents out of every dollar they accumulate in their life back to the Government.

The same is true for small business. The National Federation of Independent Businesses, in surveying companies, found that the No. 1 reason small businesses do not survive into the second and third generation is death taxes.

I rejoice. I know some of my colleagues view the whole world as a class struggle. They believe all of existence is a conflict between the rich and the poor. I always get confused about who is who because it changes so often.

I liken the stimulus package to the coldest week of the year, it is snowing, it is sleeting, it is freezing, and a breeze comes along and blows a roof off an apartment building. Logical people say: Why don't we rebuild this roof?

We have colleagues who say: Wait, won't people make money rebuilding this roof? There will be a profit, and don't rich people tend to live on the higher floors of this apartment building? Won't they benefit more by having a roof than the poor people who live in the basement and on the first and second floors?

Really, wasn't that what the stimulus debate was all about? Honest to God, what we do, remarkable as it sounds, is we end up buying a bunch of blankets, stockpiling penicillin, we hire a bunch of doctors and nurses, and we spend a whole winter treating people for exposure rather than rebuilding the roof on the apartment building.

On the death tax—and I am sure my colleague from Arizona will concur—I have never spoken on this subject in my State to any audience no matter what their background, what their education, no matter what their income, no matter what their wealth that did not believe that it was fundamentally wrong to force a family to destroy their life's work in a business or a farm to pay taxes when somebody died. People fundamentally think it is wrong to tax death. You have to die anyway. That is never a happy event. Why should we compound it by rushing in and collecting a tax at that moment?

I have found in watching audiences, when I have spoken on this subject, it does not seem to matter whether it is a local banker or whether it is a guy who works at the filling station. Nobody believes, at least in my State, that it is right when somebody has paid taxes their whole lives, has built up a farm or a business, to take it away from their children when they die.

We reached a bipartisan consensus on that principle, but because of this fluke in the budget process the death tax comes back in 10 years. So we have 1 year where it is repealed. The Senator from Arizona, in an amendment I am proud to support, has proposed we make the repeal of the death tax permanent.

My guess is we are not going to get to vote on that this evening. I assume the Senator from Arizona would love to vote on it today. Our Democrat leader, our dear friend, has said there is a stall underway.

We would like to vote on this amendment now. At some point, the Senator from Arizona might ask unanimous consent that we have an opportunity to vote on this amendment this afternoon. What I am fearful is going to happen is we are going to have a vote on cloture—and nobody knows what that means except people in the Senate, but that means no more amendments can be voted on, the Daschle proposal has to be voted on by a yes or no. If that is defeated, as I believe, A, it should be and, B, it will be, then in listening to Senator REID it sounds to me as if the majority leader is saying he will pull down the bill and we will never get a chance on this bill to vote on making the death tax repeal permanent.

I think this is an important issue. I would like to vote on it. Perhaps if people want to get on with writing the bill, if we could make the death tax repeal permanent, as bad as I believe the Daschle proposal is, I believe it does absolutely nothing for the economy, I would have a hard time not voting for it if we were making the death tax repeal permanent.

Quite frankly, if Senator DASCHLE wanted to pass his bill he could probably pick up at least two votes by supporting our amendment. So, A, I hope we can vote on this today. B, I hope we can vote on it someday. C, I believe when the American people understand we did not really repeal the death tax unless you die 10 years from now and if you do not die in that year it comes back, I think they are going to demand it be repealed, and I believe it will be repealed. I do not have any doubt in my mind we will repeal the death tax.

I thank the Senator from Arizona. I urge him to talk to the majority leader about having a vote this afternoon. We would like to vote. Every Senator in the Chamber right now, except Senator REID, is convinced, and the Presiding Officer, and we are ready to vote. We would like to have a vote on this issue. Perhaps if we could adopt this amendment, we might be moving toward a stimulus package that would be truly bipartisan.

I thank my colleague for his leadership, and I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Arizona.

Mr. KYL. I thank the Senator from Texas very much for his great set of comments, and also for what he said personally. I agree, when the assistant majority leader says there is an attempt to slow walk this bill, that is simply not the case. In fact, I will not do it right now because he is preoccupied, but at some time when we have the Senator's full attention—he has had a chance perhaps to talk with others on his side—I will propound a unanimous consent to vote as soon as we can, to vote this hour, to vote next hour, to vote sometime this evening, to vote sometime before the cloture vote, on this amendment. If we could vote before 4:30, we would be prepared to do that. Or if there is an effort to get a little bit more debate before the vote, that is fine, too, but there is no effort to draw this out. I am ready to vote right now on this amendment and move on.

The Senator from Nevada made the point that this amendment offered by the Senator from Arizona shows how hard it has been for the majority leader, what he has had to put up with for many months; that it does not matter quite what he does, the bill is never quite right and amendments are offered.

There are three responses to that. First, there have not been that many amendments offered to this bill, certainly not that many which have been debated and voted on, only a handful.

Secondly, I think the Senator from Nevada must concur the bill is not quite right because he and I have an amendment which we both think is a pretty darn good amendment that would make the underlying bill a lot better. Senator REID himself proposed that amendment on our behalf. I believe it was yesterday. So, no, we do not think the bill is quite right either.

Of course, when Senators do not think it is quite right, then we have an opportunity to offer an amendment. Frankly, there are a lot of things I do not like about it. I would love to propose a lot of amendments, but I selected only two: this very important death tax repeal because of the effect it will have in stimulating the economy, and the other is the amendment that Senator REID and I sponsored, which also would have a direct stimulative effect on the economy because it helps the precise industry that was most dramatically affected, the air travel industry. We can relate it to the travel industry generally after September 11.

So, no, there is no effort to slow walk this bill or to prevent it from ever being considered or voted on. We are simply trying to do what Senator REID himself has tried to do, and that is make it better.

I dare say the amendment I have offered would make the bill a whole lot better. As the Senator from Texas said, even though I am not much in favor of the underlying bill, if we were able to adopt this death tax repeal and make that permanent, I would be sorely tempted to vote for the majority leader's bill.

The other point I wanted to make with respect to this business of slow walking is exactly what the Senator from Texas said. We could vote on the Centrist Coalition proposal right now. I think everybody recognizes that would pass. We could be out of here by 5 tonight by allowing the bipartisan Centrist Coalition bill, which President Bush has endorsed, to come to the floor. It is, in fact, the only bill that can pass this body.

So if we are talking about getting something passed and getting it to conference so we can actually have a stimulus package bill, we all know the formula for that. It does not have to take but another few minutes and we could be done with it. We offered to do that. I offered to be sorely tempted to vote for the underlying bill if my death tax amendment is adopted, and I probably would. We can get all this done very quickly.

One other thing I wanted to respond to that my friend from Nevada argued, and it is the same old argument that was made when we considered the death tax repeal the first time around—it was wrong then and it is wrong now—is that the death tax only applies to the top 1 ° percent and therefore it is a tax on the rich, and who would care about the rich?

Well, there are really three responses to that. The first is that it is just not true. As I noted before in my earlier comments, Dr. Wilbur Steger, who is a Ph.D. and president of CONSAD Research Corporation, and a professor, has noted this argument that it only applies to the top 1 ° or 2 percent is wrong.

He says that, in fact, in a typical year, the total number of taxable estates that consist largely of family owned businesses likely exceeds 10,000.

What does that number really mean? First of all, that is 10,000 businesses. Multiply by that the number of employees who work in each business. Pick any number. One certainly has to say the people who work for those businesses are directly affected. If the business goes out of business because the death tax has to be paid, that directly affects every employee in that business, times the number of family members with each one of those employees, times the number of stores that they buy things from and all the rest of it.

A lot more people are affected by the death tax than just the number of people who happen to die each year who end up paying the tax, in addition to which everybody who might have to pay the tax has to be worried every year about the estate planning. They, too, are directly affected.

As I pointed out before, they end up paying at least $23 billion a year, and the lawyers, accountants, estate planners, insurance, and other expenses of estate planning that enable them to deal with this future contingency. They may not die this year, but they are having to shell out a lot of money this year in order to deal with their potential future estate liability.

It turns out a lot of people are affected by the existence of the death tax. What the Senator from Texas pointed out a while ago is the clincher. There is nothing more destabilizing to an economy than having a temporary tax, especially one which no one can predict with any degree of certainty is going to apply in the future. I refer specifically to the estate tax. We phase it down a little bit over the next 8 years. Then we repeal it altogether. Then it goes right back into existence as it was last year with a 60-percent rate. How can I plan against that if I don't know when I am going to die? Do I plan for it in the eighth year, in the seventh year, or maybe in the year that it is repealed altogether? That would be great if I died that year; at least my heirs would not be burdened. But if I live an extra year, they have big problems. What about beyond that? Nobody knows.

As the Senator from Alabama argued earlier, you do not know whether to invest in the plant equipment or put the money away because you have to pay the estate tax with it. It is very destabilizing. In the meantime, you keep shelling out that money to the estate planning folks rather than investing it in your business. That is why it belongs on this bill.

We know it will create jobs, 240,000 jobs in 7 years. Americans would have $25 billion in additional disposable personal income. This is from a report of the Joint Economic Committee, not my numbers. We have other estimates that back up this point. As a matter of fact, Dr. Steger, who I quoted earlier, indicates an immediate death tax repeal would provide a $40 billion automatic stimulus to the economy. That is because of the pent-up capital that citizens do not deal with because of the potential tax liability that exists; a $40 billion automatic stimulus to the economy at virtually no cost to the Treasury. Talk about getting the bang for the buck, I don't think there is anything we can do that would have a greater immediate impact on our economy than the repeal of the death tax.

We talk about extending unemployment benefits for 13 weeks. Does that stimulate the economy in any way? No. Does that create any jobs? No. But it is a central feature of the stimulus bill that is before the Senate.

We may want to extend unemployment benefits for the people currently out of work. But I don't think anyone can argue that stimulates the economy. To anyone who says, Senator KYL, how come you are offering the death tax repeal on the stimulus bill? I say, how come you are offering or supporting the unemployment extension? That does not create a single job. I know people would rather have a paycheck than an unemployment check. Let's do something that would stimulate the economy, create jobs, provide that investment, take the $40 billion in pent-up capital, and get it into our economy, create the 240,000 jobs.

I have heard the arguments in response. I cannot imagine the Senate, which passed the death tax repeal before, would not want to finish the job of making that permanent, given the fact that it does not do a whole lot of good, except if you die in the 10th year, to do the partial repeal, the temporary repeal, the confusing and destabilizing repeal that we effected last year, without going into the final step and making it permanent. It seems to me to make so much sense.

The Senator from Texas made a comment; he thought maybe the effort would be to deny a vote. I certainly hope that is not the case. I think the American public deserves to know where their Senators stand on this issue. Do you believe in making the death tax repeal permanent or not? Do you believe it can help stimulate the economy and create jobs or not?

There are those who are going to differ on this. That is what the Senate is all about. That is fine. Take the vote. Stand where you want to stand on the issue. But we can do that quickly. We can move on to the next amendment. We can consider a whole number of amendments before we have the vote on cloture sometime tomorrow. That would be my proposal.

As Senator GRAMM said, perhaps what we should do, and I will wait until the assistant majority leader is

on the floor, perhaps we should ask unanimous consent, and I will indicate at the appropriate time when someone from the other side is here to respond other than the Senator from Minnesota, who just walked on the floor, we will ask unanimous consent to be able to vote for this at a time of their choosing prior to the cloture vote.

The Senator from Minnesota has arrived. If he wishes to speak to this, I am happy to defer to him.

Mr. WELLSTONE. I thank my colleague. I say to the Senator from Arizona, I thank him for his graciousness.

I do not know what the dynamic is here. I know there is an amendment I want to do again with Senator DURBIN and Senator DAYTON. My understanding is we may not be able to do that so there may be some problems in terms of what amendments we are able to vote on before cloture tomorrow.

However, I want to make it clear, and I assume this would make the Senator from Arizona feel better, I do want to go on record as to where I stand whether there is a vote or not. I am in very strong opposition to the amendment of the Senator from Arizona.

The good news is that in the short run, just a complete repeal of the estate tax would be over the first 10 years about $55 billion. The bad news is, over the second 10 years, when many will be 65 years of age and over, and we will all be looking to see what is in the Social Security trust fund and what is in Medicare, this amendment will cost $800 billion.

I say to the presiding Chair, I had interesting discussions with business people in Minnesota who say I am wrong. They need some help for when we pass our business to our children. I said: How about up to $5 million? And they say that would be reasonable.

But that is not what we are talking about. We are talking about an amendment that does away with all of the estate tax. I have a figure that actually 636 Minnesotans paid the estate tax in 1999.

When we hear about small farmers and small businesspeople, we are talking about the top, of the top, of the top, of the top of the population. For example, I don't pick on Bill Gates. I think he just did a good thing, talking about where is the United States and other countries in terms of our commitment to developing nations. But I don't think the Gates family really needs any help. And I think it is a little outrageous to take $800 billion out of the Social Security trust fund at the very time that many of the baby boom generation are going to be turning 65 years of age and over. That is exactly what we got in the President's budget.

I say to my colleague from Arizona, whether there is a vote or not, I am on record opposed to this, and pleased to be opposed to it. I find absolutely incredible the situation now. We have a budget that comes out from the President. We find we are going to eliminate the empowerment zones in our city. In Minneapolis, they are extremely important. The budget will actually eliminate the grants to the empowerment zones. What is supposed to be for additional child care or affordable housing will not be there, and the budget will cut the 7(a) program in the State of Minnesota. Since 1996, we leveraged $1 billion to small businesses in the State of Minnesota. We will cut the 7(a) program in half. That is $1 billion of capital we have been able to leverage to small business. It will cut the 7(a) program by 50 percent.

I hear Secretary Paige say in order to figure out how to make up for potential cuts in the Pell Program, because we keep the maximum at $4,000 a year, we will take away from true north in Minnesota. It also affects telework, people trying to find jobs and develop businesses at a time when our steelworkers are losing their jobs. Then we will go after child care. Then we go after homeless votes. Then we will cut counselors and there is no additional money for affordable child care, no additional money for Head Start. My gosh.

I hear this administration; they love the children. They are all for the small children. I am sorry to be cynical, but in the words of Fannie Lou Hamer, who once said, ''I am sick and tired of being sick and tired,'' I am sick and tired of this symbolism.

Then, I say to the Presiding Officer, we are still waiting. The Senate did a good job; Republicans did a good job—bipartisan. We were going to make the program for children, for special education, mandatory over 6 years, full funding. It would have helped our State $45 million this year, $2 billion, I say to Senator DAYTON, over the next 10 years. None of that is in the budget. But now what we have is a proposal that over the next 10 years—I mean the first 10 years, $55 billion—is bad enough. The next 10 years, when we are not going to have money because the administration has taken the money out of the Social Security and Medicare trust funds, put us into deficit, and then by the Kyl amendment, over the second 10 years, it is $800 billion. This is simply unacceptable, and I want to make clear how strongly I am in opposition.

Mr. REID. Will the Senator yield for a question?

Mr. WELLSTONE. I am pleased to.

Mr. REID. My good friend from the State of Arizona, Senator KYL, said that unemployment insurance extension does not create a single job to stimulate the economy.

Does the Senator from Minnesota, who has spent a lifetime dealing with those who are not privileged, including the unemployed—would the Senator agree with that statement? Or would the Senator agree with the statement from Joseph Stiglitz, Nobel Prize winner in economics, who says:

. . . we should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal, but also the most effective. People who become unemployed cut back on their expenditures. Giving them money will directly increase expenditures.

Would the Senator agree with that statement or the one from our friend from Arizona, Senator KYL, who said unemployment extension does not create a single job to stimulate the economy?

Mr. WELLSTONE. Mr. President, I say to my colleague from Nevada, the truth is—first of all, even if I did think extending unemployment insurance was not a stimulus to the economy, I would be for it because we ought to help people who are flat on their backs through no fault of their own.

Second of all, Joseph Stiglitz, who was with the World Bank, a fine economist, is exactly right. It is not just him, it is just about every economist you talk with, much less people back in Minnesota, talking to people in their homes and coffee shops, who all know, by definition, if you are going to extend unemployment insurance to people and put some additional dollars in their pockets, they have to go out and buy necessities for their families. They are living month to month trying to pay their bills, so of course they are going to use that money to consume, and of course it is going to stimulate the economy as opposed to—here is the interesting question, I say to my colleague—ending all of the estate tax, which, by the way, again, 636 Minnesotans pay; you have to be super, super wealthy, rich. What we are going to do instead is end that for everyone—not target it, not $5 million or $6 million, just end it for Bill Gates, who is doing good work right now, again dealing with the developing world. We are going to give it to him, and that is somehow going to stimulate the economy. But extending unemployment insurance for people who are out of work, that is not going to stimulate the economy? I think that argument is profoundly mistaken.

Mr. REID. Will the Senator respond to one more question? The minority all afternoon has said they want to vote on the package that came from the House. They said it can get more than 50 votes.

Is the Senator from Minnesota aware that just in recent days we, over here, many times have gotten more than 50 votes? On the farm bill, 53 to 45, 54 to 43, 54 to 43; unemployment insurance, we got 56 votes on that; on the Social Security lockbox, we got 53; on the Durbin unemployment insurance amendment, we got 56 or 57 votes; on the Baucus farm amendment, 57 votes.

The Senator from Minnesota and I have been in the Senate a number of years. It is very frustrating to recognize you need 60 votes to pass things here, but that is how much it takes, doesn't it, generally speaking?

Mr. WELLSTONE. That is correct.

Mr. REID. If we used the logic of the minority, we would have passed several Democratic amendments by this point

because they received 50 plus votes. I ask my friend, is the minority's argument sound, when we have had a tradition of more than 200 years that you need more than 50 votes; in fact, you need 60 to get things going—is that a fair statement?

Mr. WELLSTONE. There are two points I would like to make for my colleague. I don't know if he would agree with the second point, but we could have a good colloquy about this.

First of all, the Senate is designed as a deliberative body. There is going to be debate. That is part of what makes the Senate unique. Sometimes it can drive you crazy, but what makes the Senate unique is the unlimited amendments and unlimited debate. So you have the 60-vote requirement, quite often, on all pieces of legislation. That is the Senate. That is the way the Senate operates.

But my second point is a little bit different, which is, frankly, I hate to say this, however many votes you get in the Senate, sometimes there is a disconnect between the Senate votes and the people we represent.

I have to tell you this. The House proposal that comes over here, that House proposal is a proposal that repeals the alternative minimum tax. That House proposal is a proposal that gives away money, gives tax breaks to companies such as Enron. It gives $1 billion General Electric, for this multinational corporation. By the way, that is in the President's budget proposal: $13 billion of tax breaks for the Enrons of this world, yet we don't have the money for children in education; we are cutting the Low Income Energy Assistance Program; we don't have the money for affordable housing.

I say to my colleague again, if you talked to the vast majority of people in the country, they would say: What in the world are you doing? If you are going to have an economic recovery package, at least extend unemployment insurance, at least help the people who need the help, at least get the money in the hands of people who will consume.

Yes, there is a 60-vote requirement, and then there is the substance. I am sorry to say this. I am well aware that up until very recently the Enrons of this world have had way too much influence here, and I am well aware of the fact that some of these other big multinationals are big givers, heavy hitters, investors, and have a lot of clout. But the truth is, the vast majority of people in Minnesota and the rest of the country cannot understand this at all. They don't know what in the world giving tax breaks and tax loopholes for these big multinational corporations has to do with fairness, or has to do with economic recovery, or has to do with helping people who are unemployed, or underemployed, or subemployed, or among the ranks of the working poor.

Mr. REID. Will the Senator indicate how many millions of people live in the State of Minnesota?

Mr. WELLSTONE. Close to 5.

Mr. REID. The Senator from Minnesota said that last year approximately 650 people paid estate tax?

Mr. WELLSTONE. It was 636.

Mr. REID. So 636 people paid estate tax. How many people would you estimate are now unemployed in the State of Minnesota?

Mr. WELLSTONE. We are up to about—the percentage is about 4.5 or 5 percent, I think, unemployment in Minnesota right now.

Mr. REID. So it is tens of thousands of people?

Mr. WELLSTONE. Oh, yes.

I think it is about 5-percent unemployment, which is quite high for our State. That is the official definition of unemployment. That doesn't include the people who quit looking for work because they are discouraged, or people who are working part time because they cannot find a full-time job, or people working way under the wages they would normally make in a better economy, or people who work but still have poverty wages.

There was a report last week indicating that almost a third of adult Minnesotans are working jobs at under $10 an hour.

Mr. REID. The last question I ask my friend is this: Doesn't it seem we should be spending time on the tens of thousands of people in Minnesota who are out of work, or are no longer looking for work, or those people who are underemployed? Wouldn't it be better if we were spending some time dealing with them rather than something that is going to happen 10 years from now for the wealthiest people in America?

Mr. WELLSTONE. Of course. The Senator's words are near and dear to my heart. The answer is yes. That is why I decided to come out on the floor. I was thinking to myself: We are trying to have a simple extension of unemployment insurance; are we not down to 13 additional weeks?

In my State of Minnesota, we are focused on what is going on with education, what is happening to our children, what is happening to our schools, and where the resources are. Why can't we get the money for special education? Why can't we do better making sure the kids come to kindergarten ready to learn? Why can't we do more with afterschool programs?

Look at this budget from the administration. What you find from what the President is proposing is all of these discussions about priorities and values. But we are not going to have the money for prescription drug benefits. We are going to say in Minnesota if you are an individual with an income of $13,000 or under, or a couple with an income of $17,000 or under, you are eligible, but the rest of you aren't. We have about over 600,000, and closer to 700,000, Medicare recipients. The income profile is not high. Many of them have incomes over this, but they cannot afford prescription drug benefits. They are out.

The small business 7(a) program is cut in half. They are out. One would eliminate homeless programs for veterans. That is out. One would eliminate true north economic development work on the Iron Range in Minnesota. That is out. One would eliminate help in funding for childcare in Minneapolis. That is out. They want to go after empowerment zones and enterprise zones in Minneapolis. That is now out. They want to go after affordable housing. That is out. Help for school counselors is out. Rural education is out—all for the sake of Robin-Hood-in-reverse tax cuts giving away money to the wealthiest citizens in the country.

These are distorted priorities. This is a no-brainer. I think I am going to make this point over and over again. Let me frame the issue differently.

What we have out here is an amendment that says eliminate the estate tax for the wealthiest citizens in the country—I mean the very wealthy. It is not targeted. I would be for actually targeting this. I wouldn't mind at all doing something that would help our family farms and small businesses. We should do that. That is not what this amendment does.

We have an amendment targeted to the wealthiest citizens in the United States of America which will deplete this economy over the next 10 years at the very time baby boomers are 65 years of age and over. I am one of them. This amendment further depletes the Social Security trust fund.

That is one of the issues that people have to understand. With the President's budget proposal, we are talking about over the next 10 years taking close to $1 trillion out of the Social Security trust fund, and now another $855 billion over the next 20 years, all for the sake of tax breaks for the very wealthy, the very powerful, and the very well connected.

My colleagues on the other side of the aisle don't want to move forward with—I don't even know what you call it anymore—lifeline legislation, some help for people who are out of work, some extension of unemployment benefits. They don't want to do that.

I would like to have included coverage for the working poor and part-time workers. I would like to have increased benefits. I would certainly like to have included some help for COBRA and health care coverage. Most of that is not in here. It is just a simple extension of unemployment insurance. It is hardly anything else.

They oppose that but instead come out here with a $855 billion program over the next 20 years with all of it going to the wealthiest of Americans. That is basically the choice we have.

I would love to do a poll in coffee shops in Minnesota and across the country as to what people think about these choices.

Judge me by what I do. Judge me by my budget—not by my words.

When you start to look at the details of this budget, it is breathtaking. I am

for homeland defense. I think we need to do a lot better. We need to do a lot better with our northern border control. We need to get the public health infrastructure out there. God forbid there is a terrorist attack. We need to be prepared. First of all, we need to try to prevent it. If it happens, we need to be prepared. I am for strong defense.

I hope Senators will carefully scrutinize this budget. We have before us—between the dramatic increase in the Pentagon budget and all of these tax cuts with about 40 or 50 percent going to the top 1 percent of the population—I am now talking about tax cuts that have already passed. Now we have this estate tax. With this House proposal, they want to repeal the alternative minimum tax. I don't think they want to reach back to the mid-1980s. That is too embarrassing. Ronald Reagan was for it. The whole idea in 1986 was not to make these multinational corporations pay any taxes when all the other people in the country were.

You have $13 billion in tax breaks for multinational corporations. You have Robin-Hood-in-reverse tax cuts with about 40 or 50 percent going to the top 1 percent of the population.

You have a $855 billion reckless proposal to do away with the estate tax for the richest and wealthiest Americans in the country while at the same time cutting homeless vets programs; cuts in small business programs; cuts in childcare; cuts in empowerment zone; cuts in economic development programs for the Iron Range; cuts in counselor programs; not live up to your commitment and promise on special education, helping our kids, helping our school districts, and helping our children; don't live up to your commitment on the Pell grant program; cuts in job training during a recession and during hard economic times when people in northeast Minnesota, or in greater Minnesota, or in metro Minnesota, many of them are going back to school, or trying to go into a job training program for skills development. They have been spit out of the economy. They are looking for training so they can get back to work—cut those programs.

My party needs to find its voice. Majority Leader DASCHLE has been out there and he has been vilified. I smile. I think sometimes it is an effort to make him out to be a Newt Gingrich of the left. It is outrageous. But this party, my party, the Democratic Party, is supposed to be the party of the people. If there ever were a time for us to find our voice and for us to speak out and for our country to have a real debate about these values, it is now. In the words of Rabbi Hillel: If not now, when?

Personally, I think the thing I feel worse about is the children in relation to the education piece. I am going to be one of these people, in not too many years, who is going to be over 65 years old. Lord, we have six grandchildren. I just took our granddaughter Cari to see ''Fiddler on the Roof.'' There is that song: ''Sunrise, Sunset.'' I don't know what has happened to the time.

I believe that ultimately the way we are judged is in relation to what we have done for our children, what we have done for our grandchildren. Have we made this country better and this world better for them? I think that is how we are judged. I think that is how we are judged as parents and I think that is how we are judged as adults. I think that is how we are judged as Senators. I think that is how we are judged as Representatives. I think that is how we are judged as a nation.

How have we done for our children? We are not doing very well. In this budget, we flat-lined affordable child care. I think only about 10 percent of low-income families are able to participate in affordable child care right now because that is all the funding there is.

We say we love the little children and are concerned about the development of the brain and that we want children to read better, but we have funded Early Head Start at about the 3- or 4-percent level.

We could be a real player for children prekindergarten. We could make a real difference. We could do so much more for our schools. We could live up to our commitment on special education. For title I—I am sorry, I have indignation—they make the claim we have added $1 billion and that this is great. In real dollar terms, there is no additional money because there are more children who are eligible for title I.

We are going to test these children, all in the name of rigor. So you go to a Bancroft Elementary School and, big surprise, 80, 90 percent of them are on a free or reduced school lunch program; 60 percent of them are in homes where English is the second language; and 20, 25 percent of them move several times during the year for lack of affordable housing. There is a key education program, and there is no more funding for that. In fact, they are cutting funding for affordable housing, and we are surprised these children do not do as well? And we do not give them any more help to do better.

I think this is a debate about values. Everybody wants to talk about family values. This is a family value. How are we doing for our children? How are we doing for our grandchildren? Are we making life better for them? Are we going to make it possible for them to be good leaders in the future?

I think we have some seriously distorted priorities out there. I hope my party will directly challenge them.

A reporter said to me: The President is very popular. Does that make it hard for Democrats to be critical?

I said: Look, it is good for people to do well. The President is doing well in terms of the polls. Fine. But the real issue is whether or not we are willing to speak up for what we think is right, for what we believe in, for what we think is best for States and best for the country.

That is what people want us to do. It is important, as Democrats, that we find our voice.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Kyl second-degree amendment.

VISIT TO THE SENATE BY THE PRESIDENT OF MACEDONIA

Mr. HELMS. Mr. President, I wish to present the distinguished President of Macedonia, the Honorable Boris Trajkovski, who is a very fine gentleman with whom I have met and with whom the President has met.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 6 minutes.

There being no objection, the Senate, at 4:45 p.m., recessed until 4:51 p.m. and reassembled when called to order by the Presiding Officer (Mr. DAYTON).

ORDER OF BUSINESS

Mr. REID. Mr. President, the majority leader has asked me to announce to all Senators that there will be no more rollcall votes today.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STIMULUS

Mr. AKAKA. Mr. President, I rise in support of the compromise economic stimulus package we are now considering.

The slowdown of our Nation's economy has been a matter of increasing concern following the terrorist attacks on September 11th. Millions of Americans are dealing with the economic repercussions of the attacks on our Nation. Hundreds of thousands of workers have lost their jobs, and consumer and business confidence has eroded during this time of uncertainty. The decrease in economic activity is affecting companies ranging from small businesses to corporations, not to mention entire industries such as the airlines and the travel and hospitality industry.

The slowdown in our Nation's economy is reflected in the State of Hawaii, where as of January 26, 2002, 56,313 people have filed unemployment claims since September 11th. This is almost double the amount of claims filed for the same time period as last year. In

the weeks after the terrorist attacks most of those filing unemployment claims worked in the visitor industry. However, state labor department officials have advised me that claims are coming in from workers laid off from a wide range of industries and small businesses in Hawaii. In 2001, our visitor industry experienced a $1 billion decline from the previous year. After September 11th, domestic travel to Hawaii fell 30 percent and international travel dropped by 50 percent. The number of visitors to Hawaii declined by 600,000. Our Governor and State Legislature are considering ways to deal with a $300 million budget shortfall.

The economic stimulus proposal that we are currently considering includes important provisions such as extending unemployment insurance benefits for an additional 13 weeks for those individuals who have exhausted their regular, state-funded benefits. With the Hawaii State Department of Business, Economic Development, and Tourism predicting that a full recovery will not occur until the last half of 2003, it is imperative that we pass responsible economic stimulus legislation. Hawaii's economy and working families cannot afford another long and disastrous recovery, especially since the State was just beginning to recover from a nine-year economic recession.

Temporarily extending unemployment insurance benefits will help the American people and revitalize consumer confidence. As recent research has shown, the Unemployment Insurance system is eight times as effective as the entire tax system in mitigating the impact of a recession. In addition, the Unemployment Insurance system is able to target the very sector of society that needs the most economic stimulus. I would like to remind my colleagues that in every recession during the past 30 years, including the 1990–1991 recession, Unemployment Insurance benefits were extended.

There is no doubt that extended unemployment insurance benefits and the other elements that make up the core of this short-term economic stimulus package would help to boost Hawaii's and our Nation's weak economy. There are faint signs of recovery and resilience nationwide which underscore that we may, I repeat may, have seen the worst from the current recession. A well-defined, short-term stimulus package that is limited and specifically targeted for maximum effectiveness can play an important role in promoting economic recovery.

Clearly, there are contrasting views among Members of Congress as to what provisions should be included in a stimulus package to maximize the stimulative effect on the economy. I believe that the economic stimulus package should encourage increased spending as soon as possible to rejuvenate the economy, assist people who are most vulnerable during the economic slowdown, and restore business and consumer confidence. However, it is important that fiscal discipline over the long-term be maintained in order to ensure economic growth in the future.

I commend the majority leader for his efforts to fashion a bipartisan compromise and move this important legislation. In addition to extended unemployment benefits, the compromise package includes three components that both parties included in their stimulus bills last year, including tax rebates, bonus depreciation, and fiscal relief for states through a temporary increase in the Federal Medical Assistance Percentage, FMAP, rate.

Last month, I attended the opening of the Hawaii State Legislature and Governor Ben Cayetano's State of the State address. I am not exaggerating when I say that increased Federal Medicaid assistance to the states is critical to my State and States across the Nation that are facing tremendous revenue shortfalls because of the recession, the repercussions of September 11th, and Federal tax changes enacted last year.

I strongly support the component of the stimulus package that would temporarily increase the FMAP rate for States. Medicaid matching rates for fiscal year 2002 are based on State per capita income data from 1997, 1998, and 1999—years in which the national economy was strong. Consequently, matching rates are slated to be reduced for 29 States in 2002. The reduction in FMAP rates has worsened an already bleak fiscal outlook for many States. In August 2001, the Congressional Budget Office projected that Medicaid expenditures in 2002 would be 9 percent higher in 2002 than in 2001, while States projected that their revenues would rise just 2.4 percent.

Rising Medicaid expenditures have long been a serious concern to States. The repercussions of the terrorist attacks on September 11 are leading most analysts to expect even higher State Medicaid costs because the economic downturn will make more people eligible for Medicaid and lower State revenues. It is during difficult financial times that the Medicaid program becomes a primary target of state budget cuts. Yet, people need Medicaid during these times more than ever.

The Federal Government matches between 50 to 83 percent of the cost of Medicaid in each state. On average, the Federal Government pays 57 percent. The FMAP formula is based on the State's per capita income in the 3 calendar years that are most recently available. For years, Hawaii received the lowest Federal match—50 percent. Recognizing that increasing the FMAP rates would ease States' financial constraints, I have long worked to increase Hawaii's FMAP rate.

The temporary increase in the FMAP is an important component of our Nation's economic stimulus policy. Medicaid is the largest Federal grant-in-aid to States. Temporarily increasing the Federal matching rate could have broad positive ramifications for State budgets, the impact of which would be rapid and would not require additional Federal or State bureaucracy. These changes would provide much needed health care to people in need by providing States the resources to do so.

It is clear that an economic stimulus package is needed to support our economy during these uncertain times and to promote a rapid recovery. We saw the Federal Reserve Board cut interest rates 11 times in a row last year with limited economic effect. Congress has also taken actions to provide some of that stimulus through emergency spending for recovery efforts and to assist the airline industry. It is critical that Congress promptly pass an economic stimulus package that will rejuvenate our faltering economy while assisting households who have been especially hard hit by the downturn in the economy. I hope the Senate will complete action on this legislation this week so that the Congress can send a measure to the President by the Presidents' Day holiday.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTATE TAX REPEAL

Mr. CORZINE. Mr. President, I rise today to talk about the stimulus package, one that I firmly believe we should have as a nation. It is clear to me that while we may have a stronger economy today than we had 3 months ago or 6 months ago, we still are in a period of very slow growth, if at all, and one where I think we need an insurance policy to make sure our economy does turn around, it does pick up, and does better in the new year. We have real needs of the unemployed to address and their loss of benefits in our society.

There are plenty of reasons to believe we ought to encourage business investment through a bonus depreciation plan, and we need to help our States that are running huge deficits with Medicaid matches and in other areas.

For the life of me, I do not understand why we would think that making permanent an estate tax cut 10 years in the future is going to do a doggone thing to stimulate the economy now. While I have great respect for the distinguished Senator from Arizona, I think this idea of calling for the permanent repeal of the estate tax is just a bad idea.

Last year, I did believe there was a need for some reform with respect to the estate tax. I thought it was onerous on many small family farmers and also for small businesses and some individuals who were trying to deal with relatively limited estates. I thought it was burdensome on these folks.

I strongly opposed before I was here and I strongly oppose now the complete repeal of the estate tax. Those Americans who have done well and have had the benefit of the American promise in its greatest format I think have a responsibility to give some contribution back to the country that gave them the opportunity to do so well. We are all a part of that community. It seems reasonable that an estate tax fits within that concept.

We can talk about the rates and about some elements of it, but it seems to me there is reason to believe those who have benefited so much have a responsibility to their community and society. Furthermore, it is a gift from one generation to the next, and if we are going to be consistent in how we treat various parts of our Tax Code, gifts are taxable and so, too, should be estates.

That is not the issue today. The issue is: Is this stimulative to the economy? Is it something that makes any sense in the short term to get America's economy moving again?

For the life of me, I just do not understand it. Whatever one might think, there is just no credible argument that would show it is going to do anything to stimulate the economy today.

So I firmly want to speak out against this particular amendment because we have limited resources in this country. We have a fiscal structure that is very dangerous with regard to our needs not only in this decade but certainly in succeeding decades when the estate tax will really have a bite, as opposed to in the short run coming in, in a 10-year time frame. We have a demographic bubble that is going to change the underlying demands on Social Security. The number of people drawing it down will bankrupt it, or at least the resources will not be available to pay the benefits at a time many folks would expect them to come forward with their Social Security payments.

To complicate that problem further by making permanent this estate tax repeal is difficult to understand, particularly since it is implausible to believe anybody is going to change one whit their spending patterns today based on an estate tax repeal that is going to get implemented 10 years from now. So it is an amendment that I think has no place on a stimulus package or a stimulus bill that we might be working on today.

Again, I question whether we need a repeal under any circumstances for in fact it provides a huge windfall for a very small number of estates at the expense of the greater population. The estates of fewer than 48,000 people had to pay any tax at all in 1998. That is less than 2 percent of all estates. The beneficiaries of that estate tax, those burdened with that estate tax, are some of the wealthiest folks in America.

I think it is fine to be wealthy, but the fact is we have great needs in this country. We are making choices about whether we are going to fund an additional 2 million new teachers so we can lower class sizes in this country. We have a Social Security system that everyone says is going to be stretched to meet its needs as we go through the 21st century. We have great demands on our homeland security, on national security. It does not make sense that we should be putting this in place right now.

Also, it is dangerous for something that is really important to all Americans, and that is our charitable and philanthropic efforts in this country. It is hard to imagine what kind of impact the repeal of the estate tax is going to have on so much of the roughly $6 billion worth of charitable contributions the Treasury Department estimates we would be receiving. I am concerned about our ability to continue to make sure we have the community-based support that is operated through our philanthropic efforts. If we have ever seen the value of that, we have seen it in the days that have followed the September 11 tragedy as Americans have reached out to help others. Certainly that has been benefited by the view that charitable contributions and estates provide a basis for a lot of the charitable giving.

So while this permanent repeal of the estate tax may cost $55 billion in 2011, and that is a lot of money, I think the real issue is we ought to worry about what it is going to cost in the second decade. I have an estimate that it may be over $800 billion in the second decade from 2012 to 2021. I find it hard to believe we want to take that bet at this point in time, when we have such a serious issue coming with baby boomers and the demographics that I spoke about before, and the real need to protect and provide security to Social Security and Medicare for our seniors. I guess that is before we have a prescription drug benefit for seniors and other things we have talked about.

I do not have a clue how we could put this together and call this significant stimulus. I think there are fundamental reasons to believe that it is not a good policy in the long run. So I strongly urge my colleagues to oppose the amendment. I think there will be reason for further debate about this as we go forward in the future.

KENNEDY PROPOSAL TO REPEAL LAST YEAR'S TAX CUTS

Mr. GRASSLEY. Mr. President, I would like to address a proposal by the Democrat leadership to repeal the future individual income tax reductions enacted in last year's historic tax cut bill.

At this time last year, the CBO reported that, as a percentage of GDP, Federal taxes took 20.6 percent of GDP, a record post World War II level.

Individual income taxes were at even more dramatic levels. CBO reported individual income taxes were at 10.2 percent of GDP.

Even after last year's tax cut is fully in effect, however, the CBO estimates that Federal taxes will still take between 19.2 percent and 19.9 percent of GDP over the next 10 years.

That is still way above historically average levels of Federal taxation. Just look at the chart behind me.

This chart shows total Federal tax receipts as a percentage of gross domestic product over that past 40 years, and it projects tax receipts over the next 10 years as a result of last year's tax cut.

As you can see, even after last year's tax cut, the level of taxation remains at historically high levels of GDP.

As this chart shows, tax receipts have fluctuated frequently since 1960, but have escalated significantly since 1993. They will remain at historically high levels for the next 10 years. Now look at the history on this chart.

The most shocking spike in tax receipts began in 1993. The CBO's January 2001 report to Congress shows that in 1992, total tax receipts were around 17.2 percent of GDP. Since that time, Federal receipts climbed rapidly.

By the year 2000, Federal receipts had exploded to an astronomical 20.6 percent of GDP.

The significance of this percentage can only be appreciated by historical comparison. In 1944, at the height of our buildup during World War II, taxes as a percentage of GDP were 20.9 percent—only ½ percent higher than they are today. By 1945, those taxes had dropped to 20.4 percent of GDP.

Even after last year's tax cut is fully phased in, taxes will still average around 19.4 percent over the next 10 years. As you can see from this chart, it is still higher than most of the levels over the past 40 years.

Taxes were higher during the years 1993 through 2000, which were attributable to the tax increases forced through by President Clinton in 1993.

Similarly, the increase in receipts from 1965 to 1969 was attributable to the Vietnam conflict. The runup in receipts from 1976 to 1981 was caused by ''bracket creep,'' which occurs when inflation causes wages to increase, forcing people into ever higher rates brackets. We corrected that problem years ago.

So as you can see, while the Democrats rail against last year's tax cut, it was actually rather modest. When compared to the levels of taxation imposed over the last 40 years, we still remain at historically high levels of taxation even after last year's tax cut.

We hear now a great hue and cry from some on the other side of the aisle that last year's tax cut should be repealed. But I ask: Are high taxes the only way to balance our budget?

One of the most ardent advocates of repealing last year's tax cut is my good friend Senator KENNEDY. I have been pleased to work with Senator KENNEDY on many bipartisan proposals and look forward to continuing those efforts.

Senator KENNEDY is an important leader. Whenever he speaks, I pay close attention because he's a serious and effective legislator who often reflects the

heart and soul of the Democratic caucus.

Last year's tax cut legislation carried the support of over one-fourth of the Democratic caucus. Although the tax relief has been defined by its harshest critics in terms of its budget effects, it's important to look behind the numbers and consider what this legislation means to the American people.

Before I get to that point, however, I want to make clear that those of us who support bipartisan tax relief and accelerating reduction of the 27 percent rate do not agree with a fundamental premise of Senator KENNEDY's proposal.

Senator KENNEDY and the Democrat leadership are arguing that the budget effects of the bipartisan tax relief deny the Congress and the President the resources to tackle other domestic priorities such as a prescription drug benefit for Medicare, Social Security reform, and education reform. This argument, however, is based on a couple of critical assumptions with which I disagree.

The first assumption is that the tax relief measures beyond 2004 will have no effect on the growth of our economy.

So, for instance, bringing the top tax rate for successful small businesses to a level equal to that of America's largest corporations at 35 percent is assumed to have no effect on the economy. That assumption flies in the face of economic theory and more importantly, the anecdotal evidence I gathered from some small business folks in Iowa. From my vantage point, the best way to bolster Federal revenues is to put policies in place to grow the economy.

The second assumption is that the only way to approach Federal budget policy is to maintain record levels of Federal taxation on the American people. That view is reflected in the chart behind me.

Senator KENNEDY's proposal assumes even higher taxes are necessary to address all of our priorities. So in facing budget choices, Federal spending goes unchecked.

The assumption is there are no savings to be made on the spending side of the ledger. Implicit in this assumption is growth in both federal revenue and Federal spending as a share of our economy is a desirable objective.

To a certain extent, the proposal that Senator KENNEDY and the Democratic leadership have put forward is a reversal of their previous support for significant tax relief.

Last year, Senate Democrats proposed a tax cut of about $1.26 trillion. That compares with a bipartisan tax cut that we enacted that came out at $1.35 trillion.

Their proposal was only about 6.7 percent less than the cut that was enacted. To hear the Democratic budget people describe it, however, you would believe it was a 67 percent difference.

Keep in mind that 48 of 49 Democrats, including Senator KENNEDY, supported their alternative.

Now, I know that despite votes for long-term tax relief, many of the opponents of the bipartisan tax relief now think that we should keep the rebate and repeal the long-term tax relief.

Nothing could be worse for a slumping economy.

Do we really want to send a signal to workers, investors, and business people that their taxes are going to go up? Even if the Democrats are talking about a repeal that takes effect in 2005, higher taxes in the future are higher taxes.

If the Democrats believe that the only way to solve our budget problems is to raise taxes, instead of reducing spending, what will they do to make up the difference?

Let's start with the basis for the rebate. That is, the new 10 percent bracket. The revenue loss for this part of the package is $421 billion over 10 years. It is the biggest tax cut in the bill, by the way. I can not believe or any other member of the Senate wants to dismantle that piece.

Where do we go next? The marginal tax rate cuts lose almost $421 billion over 10 years. It appears some folks think 35 percent is too low a top rate. Well, guess what. As I alluded to above, repealing the marginal rate cuts hits small business, the biggest job generator in our economy, the hardest.

According to the Treasury Department, small business gets about 80 percent of the benefits of the cut in the marginal rates. Do we want to raise the tax rates of small businesses in a slumping economy? Does that make any sense?

Where do we go next? Do the opponents want to repeal the proposal to double the child tax credit? Or how about the refundable piece that helps 16 million kids and their families? That proposal loses $172 billion over 10 years. Does the Democratic leadership really want to deny American families the increase in the child tax credit that kicks in, in 2005?

How about the death tax relief package? That package scores at $138 billion over 10 years. Most of the revenue loss is attributable to increasing the exemption amount and dropping the rate to 45 percent on already taxed property. Is it unreasonable to provide additional relief from the death tax?

Let's take a look at the marriage penalty piece. It is the first marriage penalty relief we've delivered in over 30 years. This proposal scores at $63 billion over 10 years. Again, I do not think many folks would want to raise taxes on folks because they decide to get married. Under Senator KENNEDY's proposal, most of the marriage tax relief would be eliminated.

Continuing on through the bipartisan tax relief package, let's take a look at the retirement security provisions. This package, which will help Americans save more for retirement, scores at $50 billion over 10 years. With the aging of the baby boomers, does anyone really believe we should reduce incentives for savings? Under Senator KENNEDY's proposal, workers who want to put an additional $1,000 in an IRA or section 401(k) plan would lose that right beginning in 2005.

Finally, let's talk about education. The bipartisan tax relief package includes $29 billion in tax incentives for higher education. In this era of rising higher education costs, should we gut tax benefits for families to send their kids off to college? Do the Democrats really want to cut back on these bipartisan investments in higher education?

Now, I have just gone through about $1.3 trillion of tax relief. It sounds like a lot in abstraction, but it provides relief to every American who pays income tax. I would ask any of those who want to ''adjust'' or ''restructure'' the bipartisan tax relief, including the Democrat leadership, why would you cut the tax relief package?

I think the American people would like an answer to that question.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORZINE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF ECONOMIC STIMULUS

Mr. GRASSLEY. Mr. President, I think sometime tomorrow we are going to have some cloture votes. Who knows what happens after you are involved with cloture votes? I suppose it depends on how the cloture vote turns out. But it also depends somewhat on what the majority leader decides to do. I did not hear him this morning or this afternoon. It was suggested that if we don't get cloture, then we may go on to other legislation.

I want to speak procedurally, not so much on the substance of the underlying bill as I have done a couple of times this afternoon but about where we are and some of the irony of our being here; particularly, some of the irony about how some things are said and other things are done by the leaders who decide the agenda for the Senate. I will take a few minutes to talk about where we are on the economic stimulus bill before tomorrow's cloture vote.

The good news is that there is bipartisan recognition of the need to help unemployed workers with an extension of unemployment compensation. There is bipartisan agreement that recognizes the need to provide taxpayers with a payroll tax rebate so we are able to help stimulate consumer spending and create jobs. There is bipartisan recognition of the need to provide bonus depreciation. I suppose there are some others as well.

Kind of summing up in regard to that, there is kind of bipartisan agreement on the part of the Republicans for

what Democrats want in this area, but in areas where Republicans want to add some things there is not bipartisan agreement on the other side for those things.

That brings us to the bad news as a result of that situation. We are, in fact, stuck in a procedural quagmire. Yesterday the distinguished majority leader claimed that Republicans were slowing down the stimulus bill through filing of many amendments. I think it is a bit ironic today that we have amendments pending on which the majority leader seemingly does not want to vote. If he wanted to move this process to conclusion with a bill that the President has said he would sign, that could be done very easily. We could have a vote on that. There is bipartisan support for it. That bill would be down to the White House I believe faster than you could say Jack Robinson. Instead, the only votes that it seems we are going to be able to get are votes on dueling cloture motions. One vote will be on the majority leader's amendment. That vote is a take-it-or-leave-it vote, I believe.

I call upon all of my colleagues, Democrats and Republicans, to pay close attention. A vote for cloture tomorrow means all amendments offered or filed that have not received a vote will not get a vote. That is a very important point. A vote for cloture on the underlying amendment filed by the majority leader means all of the following amendments will not receive a vote. I will go through those.

Senator BUNNING, a foster care amendment; Senator BAUCUS, emergency agriculture funding; a second-degree amendment to that amendment by Senator KYL for permanent repeal of estate tax; Senator HATCH's amendment for a longer net operating loss carryback provision; Senator REID's amendment on travel and tourism; a second-degree amendment to that by Senator DORGAN on travel industry stabilization; and Senator DOMENICI on a payroll tax holiday, which is probably the most stimulative idea that has been presented to the Senate. We will not have an opportunity to vote on that. Senator DURBIN has an unemployment insurance amendment; Senator ALLARD, a research and development amendment, what we call permanent R&D; Senator LINCOLN, Medicaid Upper Payment Limit payments to hospitals; Senator SMITH of New Hampshire, an active duty waiver of IRA withdrawal penalty; Senator SMITH again, ban on interstate commuter taxes; Senator SMITH again, income tax waiver on tip income; Senator SMITH again, above-the-line deduction for real property taxes; Senator SESSIONS, tax incentives in regard to unemployment compensation; Senator MCCAIN, sale of principal residence for uniformed services, something our military people would benefit from very much; Senator KYL again, a repeat of his second-degree amendment which would be a permanent repeal of the estate tax; Senator THOMAS, small issue bond provisions; and an amendment I have offered which will also have a cloture vote for the bipartisan White House-centrist package, the bill that I said has bipartisan support in the Senate. If we could get it up for a vote, we would have a bill down to the President and signed. It would be an enacted economic stimulus package faster than you can say Jack Robinson.

All of those amendments will not come to a vote if the cloture vote tomorrow on the Senate majority leader's motion carries.

We are in the mode of a lot of Senators trying to put together a bill that can get a majority vote in the Senate and go to conference. Some of these amendments have to be agreed to to get that kind of bipartisan support. If you do not get a chance to vote on them, how do you ever get to a bipartisan bill? It takes that sort of bipartisanship to get anything done in the Senate.

Let me make very clear that Members who vote for the cloture on that cloture motion, if they want to vote on these amendments, they will be foreclosed.

I said there is going to be another cloture vote tomorrow. It arose out of necessity—not a necessity that I like. But the majority leader forced a vote on the White House-centrist bipartisan amendment that I offered because of his own cloture motion.

The other cloture vote—in relation to the cloture motion I filed—will be on the White House-centrist agreement on stimulus. If cloture is invoked and that amendment passes, the President says that bill will be signed. The bill has already passed the House of Representatives.

That means, bottom line, the following things will happen when the President signs the bill—and there is little disagreement that these things ought to happen—workers will get unemployment checks. Low-income people, qualifying for rebates, will get rebates to spend money. Spending that money will create jobs. Middle-income taxpayers will get more income tax relief. Those who are unemployed for the first time will get help with their health care insurance. And business will get accelerated depreciation. By doing that—investing more, increasing productivity—it will increase the number of jobs.

That is what a stimulus package is all about—two things—one, responding to the needs and the anxiety of the unemployed workers through improved unemployment benefits and for the first time, health care benefits. Currently there are 800,000 of more workers who are unemployed because of September 11; and there is probably more unemployment to come. We are all encouraged that during January unemployment was flat, there was no an increase in the rate—and helping those dislocated workers with additional unemployment benefits and with health insurance is greatly needed. The second thing objective of the economic stimulus bill, in various ways, is to stimulate the economy to create jobs.

For those who say, ''Maybe the economy is turning around; we don't need it,'' we at least have an insurance policy against the usual downtick that comes after you have been a few quarters into a recovery.

But if we want a strong economy, and a certainty of that strong economy, we are going to have to get a stimulus bill passed. So I hope tomorrow we have an opportunity not to have cloture on the underlying Daschle amendment and that we are able to then move towards a vote on the White House-centrist bipartisan package that has passed the House, has bipartisan support in the Senate, and the President has said he will sign.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSING A STIMULUS PACKAGE

Mr. NICKLES. Madam President, I regret to state to my colleagues it is pretty obvious the Democratic majority leader does not want to pass a stimulus package. We needed to amend the package. We have a lot of amendments that were pending and we have not had a vote all day. We had amendments this morning on which we were willing to vote, amendments this afternoon on which we were willing to vote. That was how we would work our way through and have a bill that would pass and go to conference.

Obviously, for some reason, the majority leader decided, no, he would file cloture, have cloture on his underlying proposal, which many Members believe falls far short of providing any stimulus. It provides a lot of spending. The majority leader's underlying proposal has spending for rebate, $14 billion for people who did not pay taxes. They certainly did not pay any income tax or they would have gotten a tax cut last year. They may have paid payroll taxes, but likely they are available for an earned-income tax credit, and in many cases three or four times the payroll tax they paid. So basically, $14 billion in welfare reform payments that many were trying to call a tax cut or rebate, but it was not a rebate.

There is another $5 billion for an entitlement program for States, supposedly to help pay for health care costs, but it was in the form of an entitlement. So it would not be $5 billion for 1 year, although it was sunsetted in 1 year, but in all likelihood will be continued indefinitely and probably cost more like $50 or $60 billion over 10 years.

He had unemployment compensation extension at about $8 billion. And I notice our colleagues on the Democratic side said: That is not good enough. We need to expand that and have that apply to temporary workers.

The Federal Government has never paid unemployment compensation for temporary workers. Some people, perhaps, want to take advantage of the fact there is a recession, so just expand Federal entitlements. That was going to cost about $16 billion.

Then the majority leader introduced the only stimulus piece, accelerated depreciation. That was 30 percent. Most people said for a year. We found out the commitment had to be made by September 10 of this year. That is not 12 months; that is more like 8 months from now.

So the stimulative side of his proposal is very small. The spending side was very big. I thought, well, I don't like starting with that. I would have preferred starting with the bipartisan bill on which Senator BREAUX and Senator COLLINS and Senator SNOWE and Senator GRASSLEY and others worked. That was a bill that most, if you count both sides, thought there was a majority vote for. That should be underlying, but we did not get that.

So we thought: We will amend the majority leader's proposal and improve it and come up with a bill worthy of passing to conference. We had several amendments. Some amendments that were adopted made the bill better. Some on our side would actually have stimulus impact. We had an expensing amendment that Senator BOND and Senator HUTCHINSON and Senator COLLINS passed. That would allow small business to expense immediately items up to $40,000. Right now the level is $24,000. That would have created jobs. That was a positive amendment.

Senator GORDON SMITH had an amendment dealing with accelerated depreciation, 30 percent for 3 years. The point of order was made and it was not successful. He came back with one that was 2 years at 30 percent. That passed and would have created jobs.

We had an amendment by Senator KYL to make the death tax repeal that we passed last year permanent. That would have been positive. You say: How could that make a difference? It makes a difference because there are farms and ranches in Missouri, Oklahoma, and all across the country that would not have to be broken up to pay the death tax. Maybe some small businesses would decide not to be so small because they could agree and know they could grow without the Federal Government getting half of it. A lot of businesses almost suffocate. Owners know if they grow the business any more, the Government will get so much, so why grow it? Why work and expand and build and create more jobs if Uncle Sam will come in and get half?

So if we passed the death tax repeal proposed by the Senator from Arizona, it would have had a positive stimulative impact on the economy.

Unfortunately, our colleagues on the Democratic side do not want to vote on that amendment. They wanted to have other amendments. They wanted amendments to increase agricultural emergency spending. Senator BAUCUS had that amendment. We defeated that amendment sometime last week. It was offered again. Senator KYL offered a second-degree amendment in addition to that to provide death tax repeal, permanent repeal. To me, that would have been positive for agriculture.

Unfortunately, our colleagues on the Democratic side did not want to vote on that amendment. They have not allowed a vote on the amendment. In other words, they are saying: We will vote on what we think is stimulative, but we don't want you to vote on your amendments. We will vote on spending increases.

They had an amendment to increase the Medicaid Federal share. I don't know what is stimulative about that, but it certainly increases Federal Government costs. Medicaid is a Federal-State program, presumably the idea of 50/50. But in many cases the Federal ratio is 70 percent, not 50 percent, and this amendment would increase the Federal ratio by another 3 percent and cost $10 billion for a couple years and in all likelihood be extended indefinitely. It would have cost $50 billion or $60 billion. That was an amendment by our colleagues on the Democratic side: Increase the Federal share on Medicaid, and instead of 70 percent, make it 73 percent; or 60 percent, make it 63 percent. The State would pay the balance.

Then they had an amendment to increase unemployment compensation, including temporary workers, and make that an entitlement. Maybe my daughter, who works part-time while she is a college student, if she changes jobs, could draw unemployment compensation. She might be appreciative, but that is an enormously expensive amendment. Every State has determined unemployment eligibility. Now we will say: States, you do or we will do it for you. And decide to do temporary workers. Some States do temporary workers; most States do not. Most States do not for a reason. But, no, we will do that.

I look at the amendments of our colleagues on the Democratic side, and I don't see anything stimulative. I see a lot of spending—agriculture, Medicaid, unemployment compensation, extend and expand entitlement programs, and do nothing to stimulate the economy, do nothing that would help create jobs.

On the other hand, on the Republican side we have more amendments that we want to offer to stimulate the economy. I mentioned Senator KYL's amendment. Senator DOMENICI has an amendment calling for a payroll tax holiday. Some Democrats say they like it. They are cosponsors of it. Guess what. We are not going to get a vote on it. The amendment offered by Senator DOMENICI might be a substitute for the entire package, it may well have a majority vote, but we are not going to get a vote on it. Why? Because cloture was filed. If we invoke cloture, this amendment falls.

There is an amendment Senator ALLARD has making R&D tax credits permanent to encourage investment in research and development. We are not going to get a vote on it.

There is a bipartisan package on which many Senators have worked. I mentioned earlier that Senator BREAUX and Senator COLLINS and Senator SNOWE and Senator GRASSLEY—several Senators worked on it, Democrats and Republicans. We are not going to get a vote on it, even though we had a majority vote in December, probably still have a majority vote for it, the President said he would sign it, it would become law, could become law this week if we pass the bill the House passed.

The House has actually passed a couple of stimulus packages. Let's pass the last one and let it become law.

No, some people do not want to pass that one either. So we are not even going to get a vote on it.

I think it is very disappointing, to use a word my colleague from South Dakota uses on occasion, to see that cloture was being called up so early. I can just see the plan. We will have a cloture vote on the Daschle underlying bill. It will not pass. It should not pass. I certainly hope it does not pass because I do not think the underlying bill is worth passing. And I do not think all these amendments I mentioned which would have a stimulative impact on our economy should be closed out. I do not think this side of the aisle should be foreclosed from offering amendments.

We did not object to having an amendment on the emergency agriculture bill of Senator BAUCUS—emergency spending. It was not really relevant to the underlying bill, but we did it. We made a point of order. They can make a point of order on Senator KYL's amendment.

I would much prefer to have an up-or-down vote but no, ''We don't want to vote on his amendment, we don't want to vote on Senator DOMENICI's amendment; we don't want a vote on the bipartisan stimulus package. No, we are going to file cloture and pull the whole bill down. If we don't get cloture, we are still going to pull the bill down. We'll give a cloture vote on the bipartisan substitute''—because we filed cloture on it just so we can get a vote. The idea being, we will vote on cloture twice, and if we don't get cloture, we will just pull the bill down.

I hope that is not the case.

I think our economy needs a little shot in the arm. It is not in great shape. We have a lot of people who are still hurting, and if we could craft a positive stimulus bill that would create jobs, we would do something positive for America.

I think what we have instead, we have the majority leader and unfortunately most Democrats—we will find

out tomorrow—who are going to say we want to have our own little package. We want to have it our way. We can't consider other amendments. We will have it our way or we will pull the bill down.

Tomorrow, when we vote on this—and I expect we will be voting on it at maybe 10:30 or 11:30 tomorrow—I urge our colleagues to vote no on the cloture vote and let us consider these amendments.

We are more than willing on this side to have a limitation on amendments. For anybody on the other side of the aisle to say Republicans are filibustering this bill is totally false. People are entitled to their own opinions, but they are not entitled to their own facts. We are willing to consider these amendments. We are willing to enter into time limits on these amendments. We are willing to pass this bill tomorrow night—tomorrow night. We are willing to finish this package. Let's just allow our colleagues to have votes on their amendments that they believe would stimulate the economy, and we will vote on amendments, as our Democrat friends have offered, to spend more money.

Let's vote on both. Let's vote on these amendments. Let's see how the votes come out and let's pass a bill. Let's pass a bill that would help the economy. Let's pass a bill that would create jobs. I hope we will.

I urge my colleagues to vote no on the cloture vote. Let's allow these amendments to have their fair day in the Senate. People worked hard on these amendments. They may well do some good.

I looked at several of these that were offered on the Republican side, some of which—several of which have Democrat cosponsors—that I think could help the economy. So I would love for our colleagues to get a chance to vote on these amendments.

We will be very cooperative working with the majority leader and others on the Democrat side to limit amendments, to try to see if we cannot get a stimulus bill that would actually help the economy.

I yield the floor.

JUDICIAL CONFIRMATIONS

Mr. HATCH. Madam President, earlier today I spoke with praise for the way in which the Chairman of the Judiciary Committee and the Democratic Leader have been handling judicial nominations in the past few weeks. One of the reasons I did so was that I detected, in a speech 11 days ago, the possibility that the Judiciary Committee may be headed in a new direction as we begin a new Session of Congress. I sensed a chance that, after eight months of Democratic control, the leaders were growing beyond their previous role of critics focused on the past. I perceived that the leaders might now understand the value of looking forward through the windshield rather than steering a course with their eyes glued to the rear-view mirror.

I have not given up this hope; it is still early enough to start this Session out on the right foot. But I now have some reason to question my optimism. Comments were made here on the floor earlier today that have put me in the position, once again, of having to set the record straight on a number of events that occurred between 84 and 14 months ago. I do not regard this recurring debate over the past as germane to the present or important to our course for the future. Nevertheless, I am compelled to make sure that the historical record is correct.

One comment that particularly surprised me was the attempt to blame the previous, Republican-controlled Senate for the creation of the current number of judicial vacancies. The fact is that the Republican Senate confirmed essentially the same number of judges for President Clinton, 377, as the Republican Senate did for President Reagan, 382, so there is simply no basis for the Democrat's allegations. Interestingly, the Democrats who controlled the Senate during the first President Bush's Administration left more judicial vacancies and allowed more nominees to go without Senate action when the first President Bush left office than the Republicans did when President Clinton left office. The bottom line is that, at the close of the 106th Congress, there were only 67 vacancies in the Federal judiciary. In the space of one Democratic-controlled congressional session, that number had shot up to nearly 100.

How did this happen? The answer is simple: The pace of hearings and confirmations under the Democratic-controlled Senate last year did not keep up with the pace of vacancies. We were moving so slowly that we were actually falling behind. When our friends across the aisle took control of the Senate on June 5 of last year, President Bush had already sent 18 judicial nominees to the Senate. All told for the year, President Bush nominated 66 highly qualified individuals to fill vacancies in the federal judiciary. But rather than focusing on the work ahead, our Democratic colleagues looked back at the year 1993 to mimic the old route taken then. After delaying their first nominations hearing by over a month, during which time they held numerous hearings on other matters, our Democratic colleagues confirmed precisely 28 judges, exactly one more federal judge than President Clinton saw confirmed during his first year in office. This transparent tit-for-tat exchange of confirmations is rear-view-mirror driving at its worst.

In the first 4 months of Democratic control of the Senate last year, only 6 federal judges were confirmed. At several hearings, the Judiciary Committee considered only one or two judges at a time. The Committee voted on only 6 of 29 Circuit Court nominees in 2001, a rate of 21 percent, leaving 23 of them without any action at all. Eight of the first eleven judges that President Bush nominated on May 9 of last year have still not even had a hearing. In contrast, there were only 2 Circuit Court nominees at the end of President Clinton's first year left in Committee.

If the Democratic leaders can take their eyes off the rear-view-mirror and take a look at what is ahead, they will see the rather obvious need to speed up the pace of hearings and votes on judicial nominees. We have lots of work to do. There are 98 vacancies in the federal judiciary, a vacancy rate of nearly 12 percent. We have 58 nominees pending in the Senate. Twenty-three of those nominees are slated to fill positions which have been declared judicial emergencies by the Administrative Office of the Courts. Of those, 13 are court of appeals nominees. Particularly important are those areas with a high concentration of judicial emergencies, such as the 4th Circuit Court of Appeals with 2 nominees; 5th Circuit Court of Appeals, where 2 nominees are pending; the 6th Circuit Court of Appeals with 7 nominees pending; and the District of Arizona, where 2 nominees are pending. Let's roll up our sleeves and get to work on these.

Another issue that was raised today was the role of the White House in this process. The fact is that the Bush administration has worked more closely with home State senators than any other administration since I have been in the Senate. Now, I know there were a couple of instances very early last year where communication could have been better, but that is bound to happen with a brand new administration. Since that time, the Bush White House has been making unusually great efforts to consult with home State senators prior to making nominations. I do not know exactly from where the complaints, if any, are coming, but I have a suspicion that some of my colleagues are forgetting the difference between the President's power to make nominations, and the Senate's role to provide advice and consent. Some Senators may wish they could exercise the President's constitutional role instead of their own, but there is no reason to blame the White House for sticking with the allocation of power established by the Framers. If there are any real problems, I invite my colleagues to let me know about them, and I pledge to do my utmost to assist in working through them.

Today's comments concerning the need for more ''consensus nominees'' from the White House are ironic in light of my colleague's discussion of several specific Clinton nominees for the districts in Texas. My colleague rhetorically asked why those nominees did not get a hearing, but he knows full well that at least a couple of the situations he mentioned were caused by serious problems created by the Clinton Administration's lack of consultation with, and failure to obtain the support of, home State senators.

In contrast, President Bush's nominees, with only a couple of early exceptions, as I noted, enjoy the full support of both home State senators. We should hold hearings and votes on those without delay. Let me mention one in particular that means a great deal to me: Michael McConnell, a nominee for the Tenth Circuit Court of Appeals.

Professor McConnell is a consensus pick not only between his home State Senators but also among many others who know his scholarship, his temperament, and his commitment to the rule of law. His nomination has been applauded by legal scholars and lawyers from across the political spectrum. Professors Laurence Tribe, Charles Fried, Cass Sunstein, Akhil Amar, Larry Lessig, Sanford Levinson, Douglas Laycock, and Dean John Sexton are among those who have praised McConnell's integrity, ability, and fairminded approach to legal issues. He enjoys broad support among the bar and the academy in his home State of Utah.

On a broader level, McConnell is regarded as fairminded and nonpartisan. He publicly opposed the impeachment of President Clinton, and wrote in support of the position taken by Justices Souter and Breyer in Bush v. Gore. He was part of the volunteer legal team that successfully defended Chicago Mayor Harold Washington, the city's first African American mayor, in a dispute with the Board of Aldermen. McConnell wrote an article in the Wall Street Journal suggesting the nomination of Stephen Breyer to the Supreme Court, and supported a number of Clinton judicial nominations. These facts are among the reasons that McConnell's appointment has been praised by a number of former Clinton administration officials, including Acting Solicitor General Walter Dellinger, Deputy White House Counsel William Marshall, Domestic Policy Advisors Bill Galston and Elena Kagan, and Associate Attorney General John Schmidt.

Professor McConnell is best known in academic circles for his scholarship in the area of Free Exercise. He has generally sided with the ''liberal'' wing of the Supreme Court on this issue, arguing for a vigorous protection for the rights of religious minorities. In one opinion, Supreme Court Justice Antonin Scalia described McConnell as ''the most prominent scholarly critic'' of Scalia's more limited view of Free Exercise rights. In the related area of Establishment of Religion, McConnell has argued that religious perspectives should be given equal—but not favored—treatment in the public sphere. Thus, he has testified against a School Prayer amendment, while supporting the rights of religious citizens and groups to receive access to public resources on an equal basis. This record indicates a thoughtful and principled approach that is worthy of great respect from all sides. Professor McConnell will be a careful, thoughtful and unquestionably fair judge when he is confirmed to the Tenth Circuit. We should have voted to confirm him last summer. There is certainly no reason to put off his hearing any further.

As I said at the beginning of my remarks, I am optimistic that the committee will continue the good start we have made in the past 2 weeks. There is no reason not to. We have plenty of work ahead of us. For those who look to the past for guidance, note that in 1994, the second year of President Clinton's first term, the Senate confirmed 100 judicial nominees. I am confident that Republicans and Democrats can work together to achieve, or even hopefully exceed, 100 confirmations in 2002—President Bush's second year in office. I look forward to working together with Chairman LEAHY and my colleagues on both sides of the aisle to accomplish this goal.

THE DISASTER IN NIGERIA

Mr. FEINGOLD. Madam President, I rise to express my concern regarding recent events in Nigeria. On January 27, an armory of the Nigerian military located within the massive city of Lagos erupted in a series of explosions, prompting desperate residents to flee the area. Reports indicate that more than 1,000 Nigerians were killed that night, many trampled to death or drowned in nearby canals as they tried to escape the disaster. Many of those who escaped with their lives lost their possessions and remain displaced. Disturbingly, reports quickly surfaced suggesting that child traffickers attempted to take advantage of the tragedy, raising questions about the fate of the missing. The entire episode, is horrifying, and my deepest sympathies go out to the families of the area.

But, I fear that this incident, whatever its precise cause, is only one more in a series of horrors visited on the Nigerian people. My colleagues have undoubtedly read about soaring levels of communal violence in this critically important African state. Such violence now grips parts of Lagos, adding to the sense of insecurity and fear in a city that just suffered such a terrible series of blasts. Yet sadly, reports of fighting in Lagos sound all too familiar, given recent history in Jos, in Kano, in Nasarawa, in Bauchi, and in the delta region.

In some cases, the government failed to act. For example, Human Rights Watch recently released a report indicating that the Nigerian authorities could have done more to prevent the massacres in Jos in September, where as many as a thousand Nigerians may have been killed in one week.

Yet in other cases, security forces have turned on civilians, as is alleged to have happened in Benue in October. Consistent and reliable reports indicated that many unarmed civilians were killed and a great deal of private property destroyed when members of the armed forces sought revenge for the murder of their fellow soldiers by a local militia group. The facts surrounding this incident are still in dispute, but coming in the wake of the 1999 incident in Odi, where the Nigerian military massacred hundreds of civilians, this incident calls into question the wisdom of continued engagement with the Nigerian military. If that force is truly committed to reform, those responsible for killing civilians in Benue must be held accountable for their actions.

In addition, the manner in which sharia, or Islamic law, is being implemented in parts of northern Nigeria calls into question the country's commitment to fundamental and universal human rights. The case, recently highlighted by the New York Times, of a woman sentenced to be stoned to death after having been found guilty of adultery, raises a number of important questions. In her case, her pregnancy was evidence of her guilt in the eyes of the court, although the alleged father of the baby was set free after the same court concluded it lacked sufficient evidence to prosecute him. The relationship between the court's decision, the sentence, and the protections contained in Nigeria's constitution is utterly unclear. The Nigerian government's silence on these pressing issues is baffling.

It is not my intention to encourage pessimism about Africa in this body. And no one wants Nigeria's democracy to succeed more than I do. But all is not well in Nigeria, and we do our Nigerian partners no favors when we pretend that the situation is better than it is. The Nigerian people want what all people want—a chance to improve their lives and the lives of their children. It is no surprise that many are dissatisfied, as it is hard to seize opportunities in a context of violence and corruption. Elections were an important first step in Nigeria's transition from the dark days of military rule. But for too many Nigerians, the days are still quite dark.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in March 1996 in La Verne, CA. The president of a gay students' organization was attacked by two men. The assailants, Eric Britton, 20, and David Riffle, 19, were each charged with battery and civil rights violations in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe

that by passing this legislation, we can change hearts and minds as well.

NATIONAL FARMERS UNION PRESIDENT LEE SWENSON

Mr. JOHNSON. Madam President, I rise today to honor an individual for his extraordinary leadership for family farmers and ranchers in South Dakota and across the entire country. Mr. Leland Swenson has been the president of the National Farmers Union (NFU) for the past fourteen years, and the president of the South Dakota Farmers Union (SDFU) for 7 years prior to that. For the past 20 years, Lee has been the leading voice for family farm agriculture in the country. During his tenure in these positions, Lee has provided immeasurable service, support, and leadership for family farmers and ranchers in efforts to maintain prosperity of rural communities.

A native of Minnesota, Lee was recruited to begin his career with South Dakota Farmers Union in 1971 as the Secretary/Treasurer. Lee was a very successful organizer, resulting in an increase in membership for 6 out of his 8 years at this post. Because of his talent, initiative, and ingenuity, Lee joined the National Farmers Union headquarters in Denver, CO as Field Services Coordinator. Lee's dedication to building a membership base and maintaining that base is something to be admired. Returning to South Dakota, Lee was elected the president of SDFU in 1981. During his swearing in ceremony, Mr. Swenson pledged to ''preserve, protect and defend the family farm system of agriculture.'' Lee has fulfilled that promise time and time again.

While farm prices were dropping and interest rates were rising in the 1980's, Lee rose to the challenge of preserving the family farm in his role as president. In response to a veto of an emergency credit bill by President Reagan in 1985, Lee organized over 8,000 farmers and ranchers to gather for a ''Farm Alliance Rally'' in Pierre, SD. This was the second largest farm rally ever to be held at the state capital. Two other organizations were involved in gathering attendants, resulting in 25 Jackrabbit Line busses bringing the farmers and ranchers to South Dakota's capital city. The overwhelming number of constituents rallying could not be ignored by the state legislators, therefore the state legislature appropriated funds to send the 105 member body plus the governor to Washington, DC to lobby Congress for the restructuring of farm and ranch debt at serviceable interest rates. This first rally served as a stepping stone for Lee to organize another rural rally 15 years later in Washington. In 2000, bus loads of farmers, ranchers, church leaders, labor organizations, and rural community leaders gathered at the nation's capital to rally for the sustainability of rural America. Without the experience, dedication, or conviction of Lee Swenson this rally would not have been a success.

For the last 100 years, the primary goal of National Farmers Union has been to sustain and strengthen family farm and ranch agriculture. The key to this goal has been Farmers Union's grassroots structure in which policy positions are initiated locally. National Farmers Union believes that good opportunities in production agriculture are the foundation of strong farm and ranch families and that strong farm and ranch families are the basis for thriving rural communities. In order for these goals and values to be carried out consistently, a well-respected, talented, and dedicated leader is vital. That is exactly what Lee Swenson provided to the organization.

Lee Swenson has achieved a number of other accomplishments during his tenure with the National Farmers Union. Bringing the states of Alaska, California, and Missouri into the organization, organizing the single largest farm rally in Washington, DC and expanding the government relations, communications and education departments of the NFU.

As National Farmers Union celebrates their 100th anniversary this year, and Lee steps down from his post as president, the delegation body can look back on prior accomplishments and be nothing but proud. Proud of their organization, proud of their commitment to family farmers and ranchers, and proud of their outgoing leader.

Finally, Lee has always been dedicated to family agriculture, and I know he will continue to contribute to not only the state of South Dakota, but family agriculture across the country. Therefore, I wish him all the best and I will continue to rely upon his valuable insight on the sustainability of rural America. On behalf of the people of South Dakota, I want to thank Lee for being a true public servant who has helped improve the quality of life for thousands of rural Americans.

ADDITIONAL STATEMENTS

AMERICAN ASSOCIATION ON MENTAL RETARDATION AWARD WINNERS

• Mr. DURBIN. Madam President, I am pleased today to join the Illinois chapter of the American Association on Mental Retardation in recognizing the recipients of the 2001 Direct Service Professional Award. These individuals are being honored for their outstanding devotion to the effort to enrich the lives of people with developmental disabilities in Illinois.

These recipients have displayed a strong sense of humanity and professionalism in their work with persons with disabilities. Their efforts have inspired the lives of those whom they care for, and they are an inspiration to me as well. They have set a fine example of community service for all Americans to follow.

These honorees spend more than 50 percent of their time in direct, personal involvement with their clients. They are not primarily managers or supervisors. They are direct service workers at the forefront of America's effort to care for people with special needs. They go to work every day with little recognition, providing much needed and greatly valued care and assistance.

It is my pleasure to acknowledge the contributions of the following Illinois direct service professionals: James Adams, Louise Adams, Sue Bailey, Chequel Banks, Sharon Brand, Gwen Condon, Dawn DeLeon, John Ferro, Jenny Hoffman, Orrin Holman, Chau Le, Veronica Mayweather, Paul McPherson, Herminia Ortiz, Isabelle Ptak, Kay Quinn, Sarah Redner, Dorothy Rendleman, Robin Roux, Edward Schultz, Jenny Schwartz, Barbara Stroud, and Sandy Verschoore.

I know my fellow Senators will join me in congratulating the winners of the 2001 Direct Service Professional Award. I applaud their dedication and thank them for their service.•

RETIREMENT OF ELEANOR S. TOWNS

• Mr. DOMENICI. Mr. President, today I recognize the retirement of a dedicated public servant and to thank her for her contributions to our Nation. Since 1998, Eleanor S. Towns has been the Regional Forester for the U.S. Forest Service's Southwest Region located in Albuquerque, NM, and in that capacity, has been responsible for the management of 22 million acres of National Forests in the Southwest.

Eleanor Towns brought to her work a rich and diversified educational background and varied work experiences. Born in Rockford, IL, she received her undergraduate education at the University of Illinois, graduating in 1965 with an A.B. in communications. She received her master's in guidance & counseling from the University of New Mexico in 1968, and her juris doctor from the University of Denver College of Law in 1982. She worked with the Bureau of Land Management before transferring to the Forest Service in 1978 as Director of Civil Rights in the Rocky Mountain Regional Office in Denver. She held progressively more responsible positions before becoming the Rocky Mountain Region's Director of Lands, Water, Soils and Minerals in 1994. In 1995, she was admitted to the Federal Senior Executive Service and assumed the position of Forest Service Director of Lands in Washington. In April 1998, she was promoted to Regional Forester for the Southwest Region.

My office has had the pleasure of working with Eleanor Towns since her arrival at regional headquarters in Albuquerque. Despite deteriorating facilities when she first arrived, a situation that has since been rectified, she remained attentive to the multiple issues

of concern to New Mexico and the Forest Service. Whatever the complex and contentious area of public land stewardship, I have found her to be professional, responsive and decisive. For example, she gave our office tremendous help during the creation of the Valles Caldera National Preserve and the development of what we called the ''Happy Forests'' legislation.

Throughout her Federal career, Eleanor Towns was an effective manager of critically important program areas, and was often called upon to tackle some of the more difficult problems of the Department of Agriculture and the Forest Service, including western water rights and employee discrimination cases. Her greatest assets have been her interpersonal skills. Known as ''Ellie'' to her friends and colleagues, she was a bridge builder—between management and employees, between the government and the public, and among divergent interest groups. Her qualities of good humor, common sense, adroit communication skills, coupled with technical expertise, have made her one of the most effective managers in the Federal Civil Service. Our Nation and its resources are the better because of Eleanor Towns, and the Forest Service is a more effective organization. On behalf of the Senate, I want to thank her for her service to the Nation and wish her and her family all the best in retirement.●

HONORING ELIZABETH BROWN CALLETON

● Mrs. BOXER. Madam President, I would like to take a moment to reflect on the tremendous accomplishments of Elizabeth Brown Calleton during her tenure at Planned Parenthood of Pasadena.

During the past 40 years, Ms. Calleton has made a major contribution to Planned Parenthood of Pasadena's 69-year history, ultimately serving as its President and CEO. A women's health care advocate, she established Planned Parenthood Community Orientation Luncheons and a community-wide research network to provide women with access to health care. Ms. Calleton served on the committee that created the North West Community Healthcare Alliance Program, a program geared to the needs of low-income, uninsured individuals. The Peer Educator Program more than doubled in size during Ms. Calleton's tenure.

In addition to her extraordinary work at Planned Parenthood, Ms. Calleton has served with a variety of community organizations including the League of Women Voters, the Pasadena Commission on the Status of Women and Women at Work. Awards she has received from the Magna Carta Business and Professional Women and the Young Women's Christian Association are a testament to her great dedication.

''Celebrating the Past, Looking Towards the Future'' pays a fine tribute to Ms. Calleton's legacy. Ms. Calleton has much to celebrate and, I know, looks forward to new challenges in her future endeavors. Her work will serve the community for generations to come.●

RECOGNITION OF SUCCESS BY 6 PARTNERSHIP

● Mr. BUNNING. Madam President, it is with great pleasure and honor that I rise today to duly recognize the Success By 6 Partnership initiative for its tireless work in the area of early childhood development for the community of Gainesway in Lexington, KY.

Less than a year ago, a unique partnership was formed between the United Way of the Bluegrass and LexLinc, which aimed to address the many educational and social needs of Kentucky children from birth to age 6. The Success By 6 initiative attempts to ready parents and children for school by the time the schools are ready for them by focusing on communication as the primary tool for problem solving. This initiative, adopted in more than 300 communities nationwide, does a phenomenal job of bringing together area leaders and families in order to properly identify the needs of parent, child, and teacher. Success By 6 has already helped organize a citywide safety seat giveaway program in Gainesway and has sparked awareness in the community of the importance of early childhood learning.

On January 8, 2002, President George W. Bush signed into law the No Child Left Behind Act, and I think initiatives such as this will work hand-in-hand with this Act to insure families that no child will be left without access to an education.

I would like to personally thank all of the participants and organizers of the Success By 6 initiative for their strong and diligent commitment to the future generations of the Commonwealth of Kentucky. Education can never be taken serious enough by either members of Congress or area leaders, and I sincerely applaud the progressive steps taken by this initiative program.

I believe that soon communities throughout Kentucky will see not only the educational advantages but also the social benefits of this program and begin measures to work this initiative into their educational agendas.●

TRIBUTE TO THOMAS STEPHEN COOK

● Mr. JEFFORDS. Madam President, today I rise to recognize and honor the life of Thomas Stephen Cook of West Enosburg, VT, who died Wednesday, November 21, after a 4-year fight with leukemia.

Thomas, who was only 12, inspired those who witnessed his strength and courage as he battled against his sickness. I have known Thomas since his birth, and as his cousin, I can honestly say he was one of the most extraordinary young people I've had the pleasure to meet. In April, as the 2001 Children's Miracle Network Champion from Vermont, Thomas visited my Washington office. He was on his way to meet President Bush, before heading to Walt Disney World to participate in the national Children's Miracle Network telethon. When you met Thomas, you could see that, even though he was young, he had been through a lot. More than that, Thomas was tough. Only his positive and optimistic attitude towards life was greater than his determination to fight his disease.

Thomas took his responsibilities with the Children's Miracle Network very seriously. He was also a fan of University of Vermont basketball. For four seasons, Thomas served the Catamounts as the ball boy for the men's basketball team. A column from the Burlington Free Press by Patrick Garrity about Thomas' role and influence on the team says:

Thomas Cook would have been pleased with the effort.

He would have loved T.J. Sorrentine's slashing drives. He would have loved Grant Anderson's blue-collar play underneath. He would have loved David Hehn's baseline-to-baseline energy and Trevor Gaines' work on the offensive boards.

Thomas wasn't at Patrick Gymnasium to see the University of Vermont men's basketball team's near-upset of Cleveland State on Saturday. He lost a long fight with leukemia last week. He died at age 12.

His customary position for Catamounts home games was down the team's bench near the baseline, where he served the past four seasons as a ball boy. As he battled his disease and endured the cruel roller coaster of hope and despair the disease became, Thomas fought alongside the Cats, too.

He came to the sidelines four years ago soon after UVM coach Tom Brennan learned of the little boy from Enosburg Falls who had been diagnosed with a disease that kills 22,000 Americans each year. What began with a hospital visit from then-freshman guard Tony Orciari blossomed into a brotherhood between the two that seeped into the hearts of every player on the team.

''He was a lot stronger than all of us,'' said senior captain Corry McLaughlin. ''Our lives are cake compared to what his was. To see him battling every day, to come out here and be with us, let alone to make it through every day, he was just a really strong kid.

''From his attitude, you would have never known he was sick. He was happy every day, jovial and upbeat.''

Here's hoping the next one goes in. For Thomas.

Thomas will be fondly remembered by everyone who was fortunate to have known him.●

TESTIMONY OF RICHARD J. SANTOS

● Mr. DOMENICI. Madam President, I ask that testimony inserted into the Budget Committee record from Richard J. Santos, the National Commander of the American Legion, be printed in the RECORD.

The testimony follows.

WRITTEN STATEMENT OF RICHARD J. SANTOS, NATIONAL COMMANDER, THE AMERICAN LEGION TO THE COMMITTEE ON THE BUDGET, U.S. SENATE CONCERNING THE FISCAL YEAR (FY) 2003 BUDGET RESOLUTION

Mr. Chairman and Members of the Budget Committee: The American Legion welcomes the opportunity to present its views on the FY 2003 Budget Resolution. As you and your colleagues consider the President's recent budget request, I share the views of the nation's largest wartime veterans' service organization.

The American Legion's reputation as an advocate for maintaining a strong national defense is well documented, dating back to its very beginning in 1919 in Paris, France. As veterans of the War to End All Wars, The American Legion founders established an organization:

To uphold and defend the Constitution of the United States of America;

To maintain law and order;

To foster and perpetuate a one-hundred percent Americanism;

To preserve the memories and incidents of our associations in the Great Wars;

To inculcate a sense of individual obligation to the community, state, and nation;

To combat autocracy of both the classes and the masses;

To make right the master of might;

To promote peace and good will on earth;

To safeguard and transmit to posterity the principles of justice, freedom and democracy;

To consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

The only common bond of all Legionnaires is honorable military service during a period of armed conflict. Legionnaires are men and women that belong to an organization based upon comradeship. This group of veterans is devoted to fair and equitable treatment of their fellow veterans, especially the service-connected disabled. Another group of veterans honored by The American Legion is those fallen comrades that are killed in action (KIA), missing in action (MIA), or those held as prisoner of war (POW). These service members often leave spouses and children behind. For those who have paid the ultimate sacrifice for freedom, The American Legion will honor their service by making sure this nation fulfills its promises to their survivors. For those listed as MIA or POW, The American Legion will continue to demand the fullest possible accounting of each and every comrade.

NATIONAL SECURITY

The deep-rooted interest of The American Legion in the security of the nation was born in the hearts and minds of its founders and sustained by its current membership. The bitter experiences of seeing comrades wounded or killed through lack of proper training crystallized the determination of Legionnaires to fight for a strong, competent defense establishment capable of protecting the sovereignty of the United States. The tragic events of World War I, largely precipitated by unprepared military, were still vivid in the minds of combat veterans that founded The American Legion. After 22 years of repeated warnings by The American Legion, Pearl Harbor dramatically illustrated the cost of failed vigilance and complacency.

For over 83 years, The American Legion's drumbeat on defense issues has remained constant. With the evolution of space age technology and scientific advancement of conventional and nuclear weapons, The American Legion continues to insist on a well-equipped, fully manned, and a properly trained fighting force to deter aggressors. The events surrounding September 11, 2001 publicly exposed a soft underbelly of America to acts of terrorism, especially the vulnerability to nuclear, biological, and chemical (NBC) warfare.

America's armed forces must be well manned and equipped, not to pursue war, but to preserve the hard-earned peace. The American Legion is fully aware of what can happen when diplomacy and deterrence fail. Many military experts believe that the current national security is based on budgetary concerns rather than real threat levels to America and its allies. As the world's remaining superpower, America's armed forces need to be more fully structured, equipped, and budgeted.

Defense budget, military manpower, and force structure are currently improving over the FY 2001 levels. The current operational tempo of active-duty and Reserve and Guard forces remains extremely high and very demanding. The American Legion recommends:

Active-duty personnel level should not be less than 1.6 million.

The Army must maintain 12 fully manned, equipped, and trained combat divisions.

The Navy must maintain 12 aircraft carrier battle groups and a viable strategic transport capability.

The Air Force must maintain, at a minimum, 15 fighter wings, a strategic bombing capability, its Intercontinental Ballistic Missile capability and a global strategic transport capability.

Deployment of a national missile defense system.

The defense budget should equal 3–4 percent of the Gross Domestic Product.

The current active-duty personnel level is approximately 1.37 million. Military leaders are making up the difference by increasing the operations tempo and by over-utilizing the Reserve components. Currently, American military personnel are deployed to over 140 countries worldwide. Overseas deployments have increased well over 300 percent in the past decade. Many of these personnel continue to come from the Reserve and Guard components.

Cuts in force structure cannot be rapidly reconstituted without the costly expenditures of time, money, and human lives. Modernization of weapon systems is vital to properly equipping the armed forces, but are totally ineffective without adequate personnel to effectively operate the state-of-the-arts weaponry. The American Legion strongly recommends adequate funding for modernization of the services. America is losing its technological edge. No American soldier, sailor, airman, or Marine should be ordered into battle with obsolete weapons, supplies, and equipment. America stands to lose its service members on the battlefield and during training exercises due to aging equipment. The current practice of trading off force structures and active-duty personnel levels to recoup modernization resources must be discontinued.

The American Legion recommends restoring the force structure to meet the threat level and to increase active-duty personnel levels. Ensuring readiness also requires retaining the peacetime Selective Service System to register young men for possible military service in case of a national emergency. Military history repeatedly demonstrates that it is far better to err on the side of preserving robust forces to protect America's interest than to suffer the consequences of ill preparedness. America needs a more realistic strategy with an appropriate force structure, weaponry, equipment, and active-duty personnel leave to achieve its objectives.

A major national security concern is the enhancement of the quality-of-life issues for service members, Reservists, National Guard, military retirees, and their families. During the First Session, President Bush and Congress made marked improvements in an array of quality-of-life issues for military personnel and their families. These efforts are visual enhancements that must be sustained. The cost of freedom is on going, from generation to generation.

The President and Congress addressed improvements to the TRICARE system to meet the health care needs of the military beneficiaries; enhanced the Montgomery GI Bill educational benefits; and homelessness throughout the veterans community. For these actions, The American Legion applauds your strong leadership, dedication, and commitment. However, one issue still remains unresolved: the issue of concurrent receipt of full military retirement pay and VA disability compensation without the current dollar-for-dollar offset. The issue of concurrent receipt appeared in the FY 2002 budget resolution and the FY 2002 defense authorization act. Every day, new severely disabled military retirees are joining the ranks of American heroes being required, by law, to forfeit military retirement pay.

Recently, 14 soldiers and 2 airmen were awarded Purple Hearts from the War on Terrorism. These newest American heroes would be the latest victims of this injustice should their war wounds result in debilitating medical conditions. During the State of the Union Address, one such future recipient, SFC Ronnie Raikes, was sitting next to the First Lady. Concurrent receipt legislation in both chambers (S. 170 and H.R. 303) has overwhelming support by your colleagues. With the President's proposed $48 billion increase in defense spending, The American Legion believes now is the time to correct this terrible injustice. Enactment of corrective legislative and fully funding concurrent receipt are actions to properly reward heroism and courage under fire.

If America is to continue as the world's remaining superpower, it must operate from a position of strength. This strength can only be sustained through meaningful leadership and adequate funding of the armed forces.

VETERANS' HEALTH CARE

The American Legion believes that the primary mission of the Department of Veterans Affairs (VA) is to meet the health care needs of America's veterans. The American Legion believes that the VA should continue to receive appropriate funding in order to maximize its ability to provide world-class health care to the large number of aging veterans, while still maintaining services to a younger cohort of veterans who are using VA for the first time. The American Legion greatly appreciates the actions of all Members of Congress regarding the increase in VA Medical Care funding for FY 2002. Now, please focus your attention to the increases in FY 2003.

Just like the Medicare and Medicaid programs, the VA health care budget requires an annual increase to maintain its existing service level and to fund new mandates. For years, VA managers wee asked to do more with less. The recent funding increase now allows the Veterans Health Administration (VHA) to catch up with the growing demands placed upon the system and repair some of the problems related to long patient waiting times and limitations on access to care.

The American Legion felt that the President's budget request last year failed to accurately reflect VA's FY 2002 health care funding needs. VA's projections misrepresented the actual number of veterans seeking care. It appears that the President's budget request was based on a much lower number of patients projection (less than 3 percent) than the actual number of users (closer to 11 percent). Fortunately, Congress added over $300 million to the President's original request; however, VHA is now faced

with dealing with an inadequate FY 2002 budget. The American Legion believes that close to 5 million veterans will seek care in VHA medical facilities in FY 2003. Last year, The American Legion requested $21.6 billion in FY 2002; however, this year we recommend $23.1 billion for VA medical care.

Many factors are driving more veterans to use VHA as their primary health care provider:

Many Medicare+Choice health maintenance organizations (HMOs) withdrew from the program;

Many HMOs collapsed;

VHA has opened community based outpatient clinics;

Double-digit increase in health care premiums;

The dramatic fluctuations in the national economy make VHA a more cost-effective option for veterans; and

VHA's reputation for quality of care and patient safety is attracting new patients.

Where comparable data exist, VHA continues to outperform the private sector in all indicators in health promotion and disease prevention. The American Legion adamantly believes VHA is the best health care investment of tax dollars. The average cost per patient treated within VHA is unmatched by any other major health care delivery system, especially with comparable quality of care.

Mr. Chairman and Members of the Committee, the reason VHA medical care continues to increase annually is not because of uncontrollable cost increases nor poor cost estimations, but rather because thousands of veterans are voting with their feet. More and more veterans are choosing to use their earned benefit—access to VHA. However, enrollment in VHA is limited to existing discretionary appropriations. The American Legion urges Congress to evaluate several options that would assure every veteran that wants to enroll in VHA can enjoy that earned benefit. The key factor driving the increases in medical care funding requirements has not been uncontrolled cost increases, nor has it been poor cost estimation processes—it has been the unexpected and dramatic increase in demand for care from the VA system.

The overall guiding principle for VA must be improved services to veterans, their dependents, and survivors. This will require improving access and timeliness of veterans' health care; increasing quality and timeliness in the benefit claims process; and enhancing access to national and state cemeteries. Specific American Legion objectives for Congress include:

Sound VHA funding for long-term strategic planning and program performance measurement,

Additional revenue for staff and construction,

Medicare subvention,

Pilot programs for certain dependents of eligible veterans,

VA and DoD sharing,

Reduce the claims backlog,

Repeal bar to service-connection for tobacco-related illnesses,

Increase the rate of beneficiary travel reimbursement, and

Allow all third-party reimbursements collected by VA to supplement, rather than offset, the annual Federal discretionary appropriations.

The American Legion created the GI Bill of Health as a blueprint for meeting the current and future health care requirements of the nation's veterans and for supplementing VA's annual health care appropriation. The GI Bill of Health, once fully implemented, would expand VHA's patient base and increase its non-appropriated funding through new revenue sources.

As VHA continues to re-invent itself, change is not a defining event, but rather a series of small steps. Despite its recent successes, VHA still faces numerous future challenges.

The American Legion believes VHA's long-term future must be clearly defined to be responsive to those who have ''borne the battle.'' All individuals, who enter military service, should be assured that there is a health care system dedicated to serving their needs upon leaving the military. That concept is especially important to disabled veterans and to retired service members. The GI Bill of Health would ensure that all honorably discharged veterans would be eligible for VA health care, as they will fall into one of the core entitlement categories and into a health insurance or buy-in category. A unique feature of the GI Bill of Health is that it will also permit certain dependents of veterans to enroll in the VA health care system.

The American Legion commends VA for the changes made within VHA over the past few years. These changes include eligibility reform, enrollment, the reorganization of the 172 medical centers into 22 integrated operating units, the elimination of certain fiscal inefficiencies, and the expansion of community based outpatient clinics. In some cases, The American Legion believes VA has gone too far in attempting to improve fiscal efficiency. Veterans should not have to increase their travel time for the benefit of the Department. Rather, VHA needs to improve its cooperation with other Federal, state, and private health care providers to improve the quality and timeliness of care for veterans and their families. The American Legion encourages VHA to continue to provide health care that is the highest quality to all veterans at the most reasonable cost.

Two additional significant steps required to re-engineer VHA are Medicare subvention and permitting certain dependents of veterans to utilize the system.

Unlike in the private sector, Medicare-eligible veterans cannot use their Medicare benefits in a VHA facility for treatment of nonservice-connected conditions. When Medicare-eligible veterans receive health care treatment for any medical condition in the private sector, the federal government reimburses the health care provider for a portion of that service. When Medicare-eligible veterans receive health care treatment for the same medical conditions (nonservice-connected) within VHA, the federal government will not reimburse VHA for any portion of that service. This equates to a restriction on a veteran's right to access health care of his or her choice and using his or her Medicare benefit. The American Legion believes that Medicare subvention will result in more accessible, quality health care for all Medicare-eligible veterans. Furthermore, Medicare subvention should greatly reduce incidents of fraud, waste, and abuse in billing because it will occur between two Federal agencies with congressional oversight. Today's fiscal realities requires VHA to seek other revenue streams to supplement the growing demand for service and not simply rely on saving more dollars to serve more veterans. The American Legion strongly recommends allowing Medicare subvention for Priority Group 7 Medicare-eligible veterans enrolled in VHA.

Allowing certain veterans' dependents access to health care within VHA will also help develop new revenue streams and will ultimately improve recruitment and retention within the armed forces. Service members need to know that their dependents have access to quality health care while serving on active duty. The American Legion believes that VHA can and should play a larger role in the provision of this care to active duty service members. Additionally, when service members leave active duty, this health care coverage should continue. VHA has the capacity and the capability to play a much larger role in the provision of health care to the beneficiaries of DoD health care system.

VHA has six strategic goals through the year 2006:

Put quality first.

Provide easy access to medical knowledge, expertise and care.

Enhance, preserve and restore patient function.

Exceed customers' expectations.

Save more dollars to serve more veterans.

Build healthy communities.

Unfortunately, nowhere in the list of VHA priorities are the goals of Medicare-subvention, the treatment of veterans' dependents, expanding the non-appropriated funding revenue base, and greater cooperation with the private sector and with DoD health care system.

VETERANS' BENEFITS

Given the number of veterans and other claimants who file claims each year and with an annual expenditure of over $25 billion in compensation and pension payments, it is imperative that Congress maintain strong oversight of the operations of Veterans Benefit Administration's (VBA's) Compensation and Pension Service.

Over the last several years, the backlog of pending claims and appeals has increased dramatically and now exceeds over 660,000 cases. It routinely takes six months to a year or more to process disability compensation claims. In addition, annually, some 60,000 to 70,000 new appeals are initiated. After a wait of over two years for an appeal to reach the Board of Veterans Appeals (BVA or the Board), more than 20 percent will be allowed and more than 22 percent will be sent back to the regional office for further required development and readjudication. Remanded cases may be pending for another year or two, in the regional office before returning to the Board. Sometimes, cases are remanded two and three times because the specified corrective action had not been completed, which adds several more years to the appeal.

Unfortunately, there is a pattern of recurring issues, which continue to have a direct and adverse effect on the quality and timeliness of regional office claims adjudication. They relate to budget, staffing, training, quality assurance, accountability, and attitude. These findings confirm our long-held view that quality must be VBA's highest priority. Without guaranteed quality, thousands of claims will continue to process unnecessarily through the system: much of VBA's valuable financial and personnel resources will be wasted; and veterans will not receive the benefits and services they are entitled to and that Congress intended they should have.

The American Legion believes VBA is committed to bringing about much needed change to the claims adjudication system with the overall goal of providing quality, timely service to veterans and its other stakeholders. In recent years, VBA's strategic plans have made many promises and we have, in fact, seen the implementation of a variety of programmatic and procedural changes. However, it is obvious that progress toward major improvements in service continues to be slow and that much remains to be done. The overall quality of regional office decision making remains problematic.

Secretary Principi has identified many problems and is working diligently to find solutions that will provide improved service to veterans and their families. There are a

spectrum of ongoing and planned initiatives, such as the Pre-Discharge Examinations, Personnel Information Exchange System (PIES), Electronic Burial Claims, Virtual VBA, Decision Review Officer (DRO) Program, and personal hearing teleconferencing, just to name a few. In addition, VBA has begun implementing the recent recommendations of the Secretary's Claims Processing Task Force focusing on improving the operating efficiency of the process and procedures by which claims are adjudicated. These involve special initiatives to better manage the claims and appeals. There will be an emphasis on better training for the newly hired adjudicators. Performance standards are being implemented that provide for personal and organization accountability. VBA is continuing the development of its information technology program.

While we support these much-needed changes, we are concerned that they only indirectly address the core problem of continued poor quality decision making. Without a vigorous, comprehensive quality assurance program, thousands of claims will continue to process needlessly through the regional offices, the Board of Veterans Appeals, and the courts wasting time, effort and taxpayers' money. Veterans have a right to a fair, proper, and timely decision. They should not have to endure financial hardship and delay before receiving the benefits to which they are entitled by law.

The workload and budgetary requirements of National Cemetery Administration (NCA) will continue to grow over the next 15–20 years. The death rate of World War II veterans will peak in 2008, but the annual death rate of veterans will not return to 1995 levels under 2020. The death rates of Korean and Vietnam Era veterans will greatly accelerate thereafter. The American Legion continues to fully support the further development of the State Cemetery Grants Program.

The Veterans Millennium Health Care and Benefits Act (Public Law 106–117) requires VA to provide long-term nursing care to veterans rated 70 percent disabled or greater. The new law also requires VA to provide long-term nursing care to all other veterans for service-connected disabilities and to those willing to make a co-payment to offset the cost of care. Further, it requires VA to provide veterans' greater access to alternative community-based long-term care programs. These long-term care provisions will place greater demand on VA and on the State Veterans Home Program for years to come.

The American Legion believes that it makes economic sense for VA to look to States governments to help fully implement the provisions of PL 106–117. VA spends on average $225 per day to care for each of their nursing care patients and pays private-sector contract facilities an average per diem of $149 per contract veteran. The national average daily cost of care for a State Veterans Home nursing care resident is about $140. VA reimburses State Veterans Homes a per diem of $40 per nursing care resident. Over the long term, VA saves millions of dollars through the State Veterans Home Program.

The American Legion supports the State Veterans Home Program and believes the federal government must provide sufficient construction funding to allow for the expected increase in long-term care veteran patients.

On September 11, 2001, I was about to present testimony before a Joint Session of the Veterans' Affairs Committees, when we were directed to evacuate the Cannon House Office Building. Like Americans around the world, I was shocked by the barbaric, terrorist actions taken against innocent airline passengers, those in the World Trade Towers, and those in the Pentagon. My heart swelled with pride as fearless rescue workers, fellow service members, and private citizens rushed to assist the victims, only to experience the heartache as the Twin Towers collapsed turning heroes into victims in a matter of seconds. At that specific moment, the importance of that testimony paled in comparison. The American Legion's efforts, like the rest of America, shifted to what we do best—helping at the community, state, and national level.

SUMMARY

Since I was unable to formally present my testimony, I did submit The American Legion's recommendations for the VA budget for FY 2003 for the record. Today, it is important that I share that information to this Committee:

Program	P.L. 106–377	P.L. 107–73	Legion's FY 2003 request
Medical Care	$20.2 billion	$21.3 billion	$23.1 billion.
Medical and Prosthetics Research	350 million	371 million	420 million.
Construction:			
Major	66 million	183 million	310 million.
Minor	170 million	211 million	219 million.
State Veterans' Home	100 million	100 million	110 million.
State Veterans' Cemeteries	25 million	25 million	30 million.
NCA	110 million	121 million	140 million.
General Administration	1 billion	1.2 billion	1.3 billion.

The American Legion believes that the true character of any democracy is best reflected in the way it treats its veterans of the armed forces—the true preservers and defenders of liberty.

Mr. Chairman, and Members of the Committee, that concludes my written statement.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL MESSAGES

The following presidential messages were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

PM–69. A message from the President of the United States, transmitting, pursuant to law, the Economic Report of the President along with the Annual Report of the Council of Economic Advisers for 2002; to the Joint Economic Committee.

ECONOMIC REPORT OF THE PRESIDENT

To the Congress of the United States:

Since the summer of 2000, economic growth has been unacceptably slow. This past year the inherited trend of deteriorating growth was fed by the events, the most momentous of which was the terrorist attacks of September 11, 2001. The painful upshot has been the first recession in a decade. This is cause for compassion—and for action.

Our first priority was to help those Americans who were hurt most by the recession and the attacks on September 11. In the immediate aftermath of the attacks, my Administration sought to stabilize our air transportation system to keep Americans flying. Working with the Congress, we provided assistance and aid to the affected areas in New York and Virginia. We sought to provide a stronger safety net for displaced workers, and we will continue these efforts. Our economic recovery plan must be based on creating jobs in the private sector. My Administration has urged the Congress to accelerate tax relief for working Americans to speed economic growth and create jobs.

We are engaged in a war against terrorism that places new demands on our economy, and we must seek our every opportunity to build an economic foundation that will support this challenge. I am confident that Americans have proved they will rise to meet this challenge.

We must have an agenda not only for physical security, but also for economic security. Our strategy builds upon the charter of Americans: removing economic barriers to their success, combining our workers and their skills with new technologies, and creating an environment where entrepreneurs and businesses large and small can grow and create jobs. Our vision must extend beyond America, engaging other countries in the virtuous cycle of free trade, raising the potential for global growth, and securing the gains from worldwide markets in goods and capital. We must ensure that this effort builds economic bonds that encompass every American.

America faces a unique moment in history: our Nation is at war, our homeland was attacked, and our economy is in recession. In meeting these great challenges, we must draw strength from the enduring power of free markets and a free people. We

must also look forward and work toward a stronger economy that will buttress the United States against an uncertain world and lift the fortunes of others worldwide.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 2002*.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5292. A communication from the Secretary of State, transmitting, pursuant to Section 1006(b) of the USA PATRIOT Act, P.L. No. 107–56, a report relative to a worldwide watchlist of known or suspected money launderers, for the purpose of enforcing the new money-laundering inadmissibility; to the Committee on Foreign Relations.

EC–5293. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's Report on the Implementation and Enforcement of the Combined Sewer Overflow (CSO) Control Policy; to the Committee on Environment and Public Works.

EC–5294. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''International Banking Activities: Capital Equivalency Deposits'' (12 CFR Part 28) received on January 28, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–5295. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Capital; Leverage and Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Nonfinancial Equity Investments'' (12 CFR Part 3); to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1910. A bill to suspend temporarily the duty on certain extruders, castings, TDO Tenders, Transport/winders, and slitters; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. CLELAND):

S. 1911. A bill to amend the Community Services Block Grant Act to reauthorize national and regional programs designed to provide instructional activities for low-income youth; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of Oregon:

S. 1912. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior and the Secretary of Commerce to give greater weights to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE (for himself, Mr. CHAFEE, Mr. DODD, Mr. KERRY, Mr. LOTT, Mr. DORGAN, Mr. HAGEL, Mr. DAYTON, Mr. SARBANES, and Mr. BINGAMAN):

S. Res. 204. A resolution expressing the sense of the Senate regarding the importance of United States foreign assistance programs as a diplomatic tool for fighting global terrorism and promoting United States security interests; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. FRIST, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 358, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and for other purposes.

S. 682

At the request of Mr. MCCAIN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 682, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 686

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 686, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for energy efficient appliances.

S. 866

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 1062

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1062, a bill to amend the Public Health Service Act to promote organ donation and facilitate interstate linkage and 24-hour access to State donor registries, and for other purposes.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1456

At the request of Mr. BENNETT, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1456, a bill to facilitate the security of the critical infrastructure of the United States, to encourage the secure disclosure and protected exchange of critical infrastructure information, to enhance the analysis, prevention, and detection of attacks on critical infrastructure, to enhance the recovery from such attacks, and for other purposes.

S. 1478

At the request of Mr. SANTORUM, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1558

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1558, a bill to provide for the issuance of certificates to social security beneficiaries guaranteeing their right to receive social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. 1675

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1675, a bill to authorize the President to reduce or suspend duties on textiles and textile products made in Pakistan until December 31, 2004.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1680

At the request of Mr. WELLSTONE, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Delaware (Mr. BIDEN), the Senator from Delaware (Mr. CARPER), the Senator from Nevada (Mr. REID), the Senator from New York (Mr. SCHUMER), the Senator from South Dakota (Mr. JOHNSON), the Senator from Missouri (Mr. BOND), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1680, a bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to provide that duty of the National Guard mobilized by a State in support of Operation Enduring Freedom or otherwise at the request of the President shall qualify as military service under that Act.

S. 1712

At the request of Mr. GRASSLEY, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1712, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1897

At the request of Mrs. CARNAHAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1897, a bill to require disclosure of the sale of securities by an affiliate of the issuer of the securities to be made available to the Commission and to the public in electronic form, and for other purposes.

S. 1899

At the request of Mr. BROWNBACK, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

AMENDMENT NO. 2722

At the request of Mr. ALLARD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 2722 proposed to H.R. 622, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

AMENDMENT NO. 2728

At the request of Mr. THOMAS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 2728 proposed to H.R. 622, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

AMENDMENT NO. 2740

At the request of Mr. GRAMM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2740 intended to be proposed to H.R. 622, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

AMENDMENT NO. 2749

At the request of Mr. GRAMM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 2749.

AMENDMENT NO. 2763

At the request of Mr. ENZI, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of amendment No. 2763 intended to be proposed to H.R. 622, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

AMENDMENT NO. 2764

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 2764.

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 2764 supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1910. A bill to suspend temporarily the duty on certain extruders, castings, TDO Tenders, Transport/winders, and slitters; to the Committee on Finance.

Mr. HOLLINGS. Madam President, today, I, along with Senator THURMOND, introduce duty suspension legislation designed to permit imports of machinery into the United States duty free. This machinery is not made in the United States. Therefore, their importation will not displace domestic sourcing. Moreover, because of the nature of the products at issue, they will assist in the creation of additional jobs in the United States.

I believe that this is the most appropriate use of such legislation. The imported product will not displace any that is manufactured in the United States. Moreover, the imported product will assist in enhancing American productive capacity. I am therefore hopeful that this new capacity can be used to supply both domestic and foreign needs and will increase employment in the United States.

By Mr. INHOFE (for himself and Mr. CLELAND):

S. 1911. A bill to amend the Community Services block Grant Act to reauthorize national and regional programs designed to provide instruction activities for low-income youth; to the Committee on Health, Education, Labor, and Pensions.

Mr. INHOFE. Madam President, every summer since 1968 the National Youth Sports Program, NYSP, has enabled thousands of children, ages ten to sixteen, the opportunity to develop their athletic, academic and leadership skills in a character-building environment. Utilizing both private and public resources, the NYSP successfully partners with the National Collegiate Athletic Association, NCAA, the U.S. Department of Health and Human Services, HHS, the U.S. Department of Housing and Urban Development, HUD, and 200 institutions of higher learning across the country to provide an enriching summer experience for kids from disadvantaged backgrounds.

Each participant in the National Youth Sports Program engages with a caring, dedicated adult volunteer while being exposed to the skills, discipline, and self-esteem that organized sports provide. Each student also receives academic enrichment in the classroom, instruction on healthy living and drug and alcohol abuse prevention, leadership training, and a comprehensive medical exam. Collegiate athletes and others from the community volunteer for the five-week program to nurture kids and promote their development of body and mind. The improvement of physical fitness through a variety of daily activities from swimming to soccer is a key component of the program. Using the vehicle of high-energy sports, each student is able to learn valuable life lessons. The academic portion of the National Youth Sports Program has evolved since its beginnings to include special enrichment for math and science and useful computer training. To encourage life-long health and physical fitness, substance abuse prevention training is incorporated at several program sites, and every child receives a thorough medical exam by a local doctor. Quality medical attention is a luxury that many of these children do not otherwise have.

President Bush has encouraged our Nation to come together to build communities of character. The National Youth Sports Program is truly a nation-wide community effort. In forty-nine states, the District of Columbia, and Puerto Rico, volunteers give their time to help young people strive for their best, develop body and mind, and build strong character.

In support of the continued success and vision of the National Youth Sports Program, today I am introducing the K.I.D.S. Act: Keeping Inspiration and Development Strong. This bill amends the Community Services Block Grant Act to reauthorize appropriations for the National Youth Sports Program at $20 million for Fiscal Year 2003 and provides for its authorization through Fiscal Year 2008. I urge my colleagues to join me in support of this legislation and to make the development of our Nation's greatest resource, children, a national priority.

I ask unanimous consent that the bill be printed in the RECORD.

Their being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Keep Inspiration and Development Strong Act'' or the ''KIDS Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) since 1968, when the National Youth Sports Program (referred to in this Act as the 'Program') began, the Program has provided a character-building environment for low-income children to develop athletic, educational, and leadership skills;

(2)(A) the Program utilizes community resources, private funding, and public funding to carry out the Program's goals; and

(B) for every $1 in Federal funds appropriated for the Program, the Program receives nearly $3 from private sources, through cash contributions or services provided at Program sites;

(3)(A) the continued investment of Federal resources in the Program is in the Nation's best interest, especially given a recent increase in child obesity in the United States; and

(B) the Surgeon General's report to the President, published in the fall of 2000 and

entitled ''Promoting Better Health for Young People Through Physical Activity and Sports'', indicated that child obesity had doubled in the preceding 20 years;

(4)(A) the Program enhances the health of children by providing quality medical care; and

(B) in 2001, 77,106 medical examinations were administered at Program sites for children who might otherwise not have visited a doctor;

(5) the Program encourages educational growth in children by exposing the children to a collegiate atmosphere at an early age and establishing higher education as a natural life goal for the children;

(6) the Program is truly a national program, expanding in 2001 to college and university campuses in 49 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(7) the Nation can best prepare the children of the United States to embrace their future by encouraging healthy bodies and healthy minds.

SEC. 3. REAUTHORIZATION.

Section 682(g) of the Community Services Block Grant Act (42 U.S.C. 9923(g)) is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2003 and such sums as may be necessary for each of fiscal years 2004 through 2008.''.

Mr. CLELAND. Madam President, the National Youth Sports Program, NYSP, is an educational partnership that has worked successfully for 33 years. It provides at-risk children, ages 10–16, a 5-week summer program offering sports and academic enrichment at U.S. colleges and universities nationwide. Begun in 1969 as a sports enrichment program, the NYSP now reaches beyond athletics to offer academic instruction, substance abuse prevention, and character education. Originally offered at two higher ed institutions, last year the program served over 73,000 participants at 196 host colleges and universities in 49 States, the District of Columbia, and Puerto Rico. For many of these young people, it was their first opportunity to experience a college or university campus from the inside.

In order to enhance the educational commitment of the NYSP, selected programs at 123 sites across the Nation now include special emphasis on math and science skills. In addition, NYSP programs serving older participants, those from ages 13–16, help them enhance their computer skills and academic performance through reading and writing activities that offer mentoring opportunities to younger NYSP participants.

For over three decades the National Youth Sports Program has been a model of what a successful collaboration should be. The U.S. Department of Health and Human Services, the U.S. Department of Housing and urban Development, HUD, the U.S. Department of Agriculture, USDA, which provides a hot, USDA-approved meal to NYSP students each day, and the National Collegiate Athletic Association, NCAA, have worked together to provide a wholesome summer experience to over 1.7 million participants who have passed through the program since its inception. And over time, local medical communities have joined in. In 2000, over 74,300 medical examinations were administered free of charge or at a reduced rate. If a health problem is found, as is the case in approximately one-third of the examinations, the child is referred for adequate follow-up treatment. During the summer session, children who are injured or become ill during NYSP activities are covered by health insurance and treated by a certified medical professional.

The National Youth Sports Program is a vital and effective investment in our youth. This program has successfully leveraged Federal funding to secure substantial matching community investments. For every one dollar provided by the Federal Government, two dollars are provided by participating colleges and universities, local public and private businesses, the National Collegiate Athletic Association, the National Youth Sports Program Fund and other National Governing Bodies of amateur sport.

Today I join my distinguished colleague from Oklahoma, Senator INHOFE, in introducing legislation to reauthorize the National Youth Sports Program and to increase its funding authorization to $20 million. This increase in funding will allow 4,500 additional at-risk youth to participate in this effective program and 15 new program sites to serve communities where disadvantaged youth are in need of nurturing and support. In addition, a $3 million increase in NYSP funding will increase the number of program sites offering math and science instruction as well as expand the NYSP's highly successful senior program, which emphasizes and encourages leadership skills and character education.

The NYSP is a program which, year after year, has provided our Nation's youth with the opportunity to utilize the best resources our colleges and universities have to offer and to develop the skills necessary to succeed. At a time when President Bush has called for a renewed commitment to national service, the NYSP, with almost 1500 volunteers, is an outstanding example of what community service is all about. For three decades the National Youth Sports Program has provided a positive and enriching experience and a safe haven for some of this Nation's most vulnerable youth. This highly effective and successful program is deserving of Congress's support.

By Mr. SMITH of Oregon:

S. 1912. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior and the Secretary of Commerce to give greater weights to scientific or commercia data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Environment and Public Works.

Mr. SMITH of Oregon. Madam President, today I am introducing legislation that, if enacted, could prevent another tragic situation like the farmers and ranchers of the Klamath Basin experienced last year. The Act, the ''Sound Science for Endangered Species Decisionmaking Act of 2002,'' would require independent scientific peer review of certain actions taken by the regulatory agencies under the Endangered Species Act. In addition, it would require the Secretary of the Interior and the Secretary of Commerce to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed.

As many of you may recall, I have come to the floor of the Senate on many occasions over the last year to plead the case of the farmers and ranchers in the Klamath Basin. Last year, field-level biologists with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service developed two separate biological opinions on the operation of the Klamath Project, as it related to suckers and coho salmon, respectively.

Taken together, these two biological opinions sought to both raise the lake level of Upper Klamath Lake and increase flows in the Klamath River, at the time the Basin was experiencing a severe drought. On April 6, the Bureau of Reclamation announced that the agency would deliver no water to most of the agricultural lands that had received irrigation water from the Federal project for almost one hundred years.

I cannot begin to describe for you the human toll that these biological opinions exacted on the farmers and ranchers in the Klamath Basin. Suicides and foreclosures have both occurred. Those who still have their farms lost most of their farm income last year, many depleting their life savings to hold onto their land. Ranchers were forced to sell off livestock herds. Stable farm worker communities were decimated as families moved to find work.

The real tragedy is that none of this had to occur.

Just this week, the National Research Council found that key decisions regarding the operation of the federal Klamath Project had no clear scientific or technical support. In fact, the Council went so far as to say that, ''the committee concludes that there is no substantial scientific foundation at this time for changing the operation of the Klamath Project to maintain higher water levels in Upper Klamath Lake for the endangered sucker populations or higher minimum flows in the Klamath River mainstem for the threatened coho population.''

In other words, the two key decisions that deprived farmers of their water were not justified by the science.

This situation should never be repeated. Decisions of this magnitude under the Endangered Species Act must be peer reviewed, and some standard for the science used in these decisions must be established.

I was in Klamath Falls the day after the decision was made to cut off water

to the farmers. I will never forget the anguish on the faces of the people I met with that day. Many were World War II veterans who received homesteads in this Basin after the war.

Our constituents deserve better from their government. They will get it if this bill is enacted. I urge my colleagues to join me in cosponsoring this bill. I've submitted for the RECORD an editorial from today's Oregonian newspaper that describes this situation, and expresses support for the House companion bill. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VICTORY FOR KLAMATH FARMERS

Scientists find no basis for decision to withhold water from farms for threatened fish during historic drought

Klamath Basin farmers insisted throughout last year's bitter drought and intense environmental battle that the government had no good reason to hold back their irrigation water for federally protected fish.

Now it seems they were right. A panel of top scientists convened by the National Academy of Sciences has concluded in an interim report that there was ''no sound scientific basis'' for withholding irrigation water from more than 1,000 farmers last summer.

The report by the independent panel of 12 scientists changes dramatically the national debate over the Klamath Basin. Suddenly, the farmers are on the high ground, having endured a summer of emotional stress and financial loss due to the federal government's decision to keep extra water in Klamath Lake for endangered suckers and in the Klamath River for threatened coho salmon.

The scientists said there is no evidence that to protect the suckers it was necessary to hold back irrigation water and keep the level of Klamath Lake relatively high. Further, they said a second decision to send warm lake water downriver, rather than to irrigators, may have actually harmed coho by increasing the river's temperature.

These findings aren't a green light to open wide the irrigation headgates, in good water years and bad ones. However, President George W. Bush vowed in an appearance in Portland last month that he would get more water to farmers—and now he's got a stronger hand to do so.

The scientists suggested that in the short term that lake and river levels be held to standards in place from 1990 to 1999. They also emphasized that the U.S. Bureau of Reclamation, which recently proposed a farmer-first, fish-and-wildlife-second water plan for the Klamath Basin, should not draw down the lake and river below levels of the last decade.

Now the burden of recovering fish shifts from the farmers to where it really belongs—to a broad effort to improve fish habitat and water quality throughout the Klamath Basin, restore wetlands that naturally filter the water and install screens to protect fish from getting sucked into canals.

The report also should help persuade Congress to approve pending bills to fund Klamath projects and provide more relief to farmers. Too, it may provide impetus for a bill proposed by Rep. Greg Walden, R-Ore., to require independent scientific review of all government decisions to protect endangered species.

The federal biologist who ordered the withholding of Klamath water said last summer they were required by law to err on the side of imperiled species. While that's true, what happened in the Klamath last summer is beginning to look like an awful and avoidable error.

The decision to keep extra water in Klamath Lake and Klamath River cost the regional economy $134 million, according to a report from Oregon State university and University of California at Berkeley. It wiped out thousands of jobs, shoved farms into bankruptcy and foreclosure, and caused tremendous stress and uncertainty in families throughout the Klamath country.

For these farmers and their families, it must be small consolation to be told now that they were right all along.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 204—EXPRESSING THE SENSE OF THE SENATE REGARDING THE IMPORTANCE OF UNITED STATES FOREIGN ASSISTANCE PROGRAMS AS A DIPLOMATIC TOOL FOR FIGHTING GLOBAL TERRORISM AND PROMOTING UNITED STATES SECURITY INTERESTS

Mr. DEWINE (for himself, Mr. CHAFEE, Mr. DODD, Mr. KERRY, Mr. LOTT, Mr. DORGAN, Mr. HAGEL, Mr. DAYTON, Mr. SARBANES, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 204

Whereas the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;

Whereas poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;

Whereas broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and rule of law;

Whereas democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;

Whereas the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past two decades;

Whereas 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;

Whereas in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;

Whereas the United States Agency for International Development child survival programs have significantly contributed to a 10 percent reduction in infant mortality rates worldwide in just the past eight years;

Whereas investments by the United States and other donors in better seeds and agricultural techniques over the past two decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

Whereas, despite this progress approximately 1,200,000,000 people, one-quarter of the world's population, live on less than $1 per day, and approximately 3,000,000,000 people live on only $2 per day;

Whereas 95 percent of new births occur in developing countries, including the world's poorest countries; and

Whereas only one-half of one percent of the Federal budget is dedicated to international economic and humanitarian assistance: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism;

(3) consistent with United States foreign policy, economic incentives should be used to end state support or tolerance of terrorism; and

(4) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability, and the promotion of human rights.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2779. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table.

SA 2780. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2781. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2764 proposed by Mr. REID to the amendment SA 2698 submitted by Mr. REID and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2782. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2783. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2784. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2785. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2786. Mr. DORGAN (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2787. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2788. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2789. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended

to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2790. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON, of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2791. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2792. Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2793. Mr. GRAMM (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2794. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2795. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2796. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2797. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2798. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2799. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2800. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2801. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2802. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2803. Mr. THURMOND submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2804. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2805. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2806. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2807. Mr. SESSIONS (for Mr. KYL (for himself, Mr. NICKLES, and Mr. SESSIONS)) proposed an amendment to amendment SA 2721 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra.

SA 2808. Mr. DORGAN (for himself, Mr. REID, Mr. INOUYE, and Mr. CONRAD) proposed an amendment to amendment SA 2764 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra.

SA 2809. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2810. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2811. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2700 submitted by Mr. MCCAIN and intended to be proposed to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2812. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON, of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2790 submitted by Mr. NICKLES and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) supra; which was ordered to lie on the table.

SA 2813. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2779. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE VI—SMALL BUSINESS EMERGENCY RELIEF

SEC. 601. SHORT TITLE.

This title may be cited as the ''American Small Business Emergency Relief and Recovery Act of 2001''.

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Nation's 25,000,000 small businesses employ more than 58 percent of the private workforce, and create 75 percent of all net new jobs;

(2) as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, many small businesses nationwide suffered—

(A) directly because—

(i) they are, or were as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator of the Small Business Administration;

(ii) they were closed or their business was suspended for National security purposes at the mandate of the Federal Government; or

(iii) they are, or were as of September 11, 2001, located in an airport that has been closed; and

(B) indirectly because—

(i) they supplied or provided services to businesses that were located in or near the World Trade Center or the Pentagon;

(ii) they are, or were as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist attacks perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

(iii) they are, or were as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government; and

(3) small business owners adversely affected by the terrorist attacks are finding it difficult or impossible—

(A) to make loan payments on existing debts;

(B) to pay their employees;

(C) to pay their vendors;

(D) to purchase materials, supplies, or inventory;

(E) to pay their rent, mortgage, or other operating expenses; or

(F) to secure financing for their businesses.

(b) PURPOSE.—The purpose of this title is to strengthen the loan, investment, procurement assistance, and management education programs of the Small Business Administration, in order to help small businesses meet their existing obligations, finance their businesses, and maintain and create jobs, thereby providing stability to the national economy.

SEC. 603. DEFINITIONS RELATING TO TERRORIST ATTACKS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(r) DEFINITIONS RELATING TO TERRORISM RELIEF.—In this Act, the following definitions shall apply with respect to the provision of assistance under this Act in response to the terrorist attacks perpetrated against the United States on September 11, 2001, pursuant to the American Small Business Emergency Relief and Recovery Act of 2001:

''(1) DIRECTLY AFFECTED.—A small business concern is directly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

''(A) is, or was as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

''(B) was closed or its business was suspended for national security purposes at the mandate of the Federal Government; or

''(C) is, or was as of September 11, 2001, located in an airport that has been closed.

''(2) INDIRECTLY AFFECTED.—A small business concern is indirectly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

''(A) supplied or provided services to any business that was located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

''(B) is, or was as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist acts perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

''(C) it is, or was as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government.

''(3) ADVERSELY AFFECTED.—The term 'adversely affected' means having suffered economic harm to or disruption of the business operations of a small business concern as a direct or indirect result of the terrorist attacks perpetrated against the United States on September 11, 2001.

''(4) SUBSTANTIAL ECONOMIC INJURY.—As used in section 7(b)(4), the term 'substantial economic injury' means an economic harm to a small business concern that results in the inability of the small business concern—

''(A) to meet its obligations on an ongoing basis;

''(B) to pay its ordinary and necessary operating expenses; or

''(C) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the small business concern.''.

SEC. 604. DISASTER LOANS AFTER TERRORIST ATTACKS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately before the undesignated material following paragraph (3) the following:

''(4) DISASTER LOANS AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—

''(A) LOAN AUTHORITY.—In addition to any other loan authorized by this section, the Administration may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to a small business concern that has been directly affected and suffered, or that is likely to suffer, substantial economic injury as the result of the terrorist attacks on September 11, 2001, including due to the closure or suspension of its business for National security purposes at the mandate of the Federal Government.

''(B) DEFERMENT OF LOAN PAYMENTS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, payments of principal and interest on a loan made under this paragraph (other than a refinancing under subparagraph (D)) or paragraph (1) as a result of the terrorist attacks on September 11, 2001, shall be deferred, and no interest shall accrue with respect to such loan, during the 2-year period following the date of issuance of such loan.

''(ii) RESUMPTION OF PAYMENTS.—At the end of the 2-year period described in clause (i), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

''(C) REFINANCING DISASTER LOANS.—

''(i) IN GENERAL.—Any loan made under this subsection that was outstanding as to principal or interest on September 11, 2001, may be refinanced by a small business concern that is also eligible to receive a loan under this paragraph, and the refinanced amount shall be considered to be part of the new loan for purposes of this clause.

''(ii) NO EFFECT ON ELIGIBILITY.—A refinancing under clause (i) by a small business concern shall be in addition to any other loan eligibility for that small business concern under this Act.

''(D) REFINANCING BUSINESS DEBT.—

''(i) IN GENERAL.—Any business debt of a small business concern that was outstanding as to principal or interest on September 11, 2001, may be refinanced by the small business concern if it is also eligible to receive a loan under this paragraph. With respect to a refinancing under this clause, payments of principal shall be deferred, and interest may accrue notwithstanding subparagraph (B), during the 1-year period following the date of refinancing.

''(ii) RESUMPTION OF PAYMENTS.—At the end of the 1-year period described in clause (i), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

''(E) TERMS.—A loan under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2). Any reasonable doubt concerning the repayment ability of an applicant under this paragraph shall be resolved in favor of the applicant.

''(F) NO DISASTER DECLARATION REQUIRED.—For purposes of assistance under this paragraph, no declaration of a disaster area is required for those small business concerns directly affected by the terrorist attacks on September 11, 2001.

''(G) SIZE STANDARD ADJUSTMENTS.—Notwithstanding any other provision of law, for purposes of providing assistance under this paragraph to businesses located in areas of New York, Virginia, and the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001, a business shall be considered to be a 'small business concern' if it meets otherwise applicable size regulations promulgated by the Administration, and, with respect to the applicable size standard, it is—

''(i) a restaurant having not more than $8,000,000 in annual receipts;

''(ii) a law firm having not more than $8,000,000 in annual receipts;

''(iii) a certified public accounting business having not more than $8,000,000 in annual receipts;

''(iv) a performing arts business having not more than $8,000,000 in annual receipts;

''(v) a warehousing or storage business having not more than $25,000,000 in annual receipts;

''(vi) a contracting business having a size standard under the North American Industry Classification System, Subsector 235, and having not more than $15,000,000 in annual receipts;

''(vii) a food manufacturing business having not more than 1,000 employees;

''(viii) an apparel manufacturing business having not more than 1,000 employees; or

''(ix) a travel agency having not more than $2,500,000 in annual receipts.

''(5) AUTHORITY TO INCREASE OR WAIVE SIZE STANDARDS AND SIZE REGULATIONS.—

''(A) IN GENERAL.—At the discretion of the Administrator, the Administrator may increase or waive otherwise applicable size standards or size regulations with respect to businesses applying for assistance under this Act in response to the terrorist attacks on September 11, 2001.

''(B) EXEMPTION FROM ADMINISTRATIVE PROCEDURES.—The provisions of subchapter II of chapter 5, of title 5, United States Code, shall not apply to any increase or waiver by the Administrator under subparagraph (A).

''(6) INCREASED LOAN CAPS.—

''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and in addition to amounts otherwise authorized by this Act, the loan amount outstanding and committed to a borrower may not exceed—

''(i) with respect to a small business concern located in the areas of New York, Virginia, or the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001—

''(I) $6,000,000 in total obligations under paragraph (1); and

''(II) $6,000,000 in total obligations under paragraph (4); and

''(ii) with respect to a small business concern that is not located in an area described in clause (i) and that is eligible for assistance under paragraph (4), $5,000,000 in total obligations under paragraph (4).

''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, waive the aggregate loan amounts established under subparagraph (A).

''(7) EXTENDED APPLICATION PERIOD.—Notwithstanding any other provision of law, the Administrator shall accept applications for assistance under paragraphs (1) and (4) until September 10, 2002, with respect to applicants for such assistance as a result of the terrorist attacks on September 11, 2001.

''(8) LIMITATION ON SALES OF LOANS.—No loan under paragraph (1) or (4), made as a result of the terrorist attacks on September 11, 2001, shall be sold until 4 years after the date of the final loan disbursement.''.

(b) CLERICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended in the undesignated matter at the end—

(1) by striking '', (2), and (4)'' and inserting ''and (2)''; and

(2) by striking '', (2), or (4)'' and inserting ''(2)''.

SEC. 605. EMERGENCY RELIEF LOAN PROGRAM.

(a) LOAN PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(31) TEMPORARY LOAN AUTHORITY FOLLOWING TERRORIST ATTACKS.—

''(A) IN GENERAL.—During the 1-year period beginning on the date of enactment of this paragraph, the Administration may make loans under this subsection to a small business concern that has been, or that is likely to be directly or indirectly adversely affected.

''(B) LOAN TERMS.—With respect to a loan under this paragraph—

''(i) for purposes of paragraph (2)(A), participation by the Administration shall be equal to 85 percent of the balance of the financing outstanding at the time of disbursement of the loan;

''(ii) the Administrator shall collect an annual fee in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan, notwithstanding paragraph (23)(A);

''(iii) no fee may be collected or charged under paragraph (18);

''(iv) the applicable rate of interest shall not exceed a rate that is 2 percentage points above the prime lending rate;

''(v) no such loan shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower under this paragraph—

''(I) would exceed $1,000,000; or

''(II) at the discretion of the Administrator, and upon notice to the Congress, would exceed $2,000,000, as necessary to provide relief in high-cost areas or to high-cost industries that have been adversely affected; or

''(vi) no such loan shall be made if the gross amount of the loan would exceed $3,000,000;

''(vii) upon request of the borrower, repayment of principal due on a loan made under this paragraph may be deferred during the 1-year period beginning on the date of issuance of the loan; and

''(viii) any reasonable doubt concerning the repayment ability of an applicant for a loan under this paragraph shall be resolved in favor of the applicant.

''(C) APPLICABILITY.—The loan terms described in subparagraph (B) shall apply to a loan under this paragraph notwithstanding any other provision of this subsection, and except as specifically provided in this paragraph, a loan under this paragraph shall otherwise be subject to the same terms and conditions as any other loan under this subsection.

''(D) TRAVEL AGENCIES.—For purposes of loans made under this paragraph, the size standard for a travel agency shall be $2,500,000 in annual receipts.''.

(b) CONFORMING AMENDMENT.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by inserting ''other than a loan under paragraph (31) or a loan described in paragraph (2)(E),'' after ''this subsection,''.

SEC. 606. BUSINESS LOAN ASSISTANCE FOLLOWING TERRORIST ATTACKS.

(a) ONE-YEAR WAIVER OF SECTION 7(a) FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) ONE-YEAR WAIVER OF FEES FOLLOWING TERRORIST ATTACKS.—For loans approved during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001, a fee equal to not more than one half of the amount otherwise required by this paragraph shall be collected or charged under this paragraph.''.

(b) ONE-YEAR INCREASE IN PARTICIPATION LEVELS.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)''; and

(2) by adding at the end the following:

''(E) TEMPORARY PARTICIPATION LEVELS FOLLOWING TERRORIST ATTACKS.—For loans under this subsection, other than paragraph (31), that are approved during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001—

''(i) the guarantee percentage specified by clause (i) of subparagraph (A) shall be increased to 85 percent (except with respect to loans approved under the SBA Express Pilot Program); and

''(ii) the Administrator shall collect an annual fee in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan, notwithstanding paragraph (23)(A).''.

(c) REDUCTION OF SECTION 504 FEES.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) in subsection (b)(7)(A)—

(i) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(ii) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(iii) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001, for the life of the loan; and''; and

(B) by adding at the end the following:

''(i) ONE-YEAR WAIVER OF FEES FOLLOWING TERRORIST ATTACKS.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 1-year period following the date of enactment of the American Small Business Emergency Relief and Recovery Act of 2001.''.

(2) USE OF FUNDS FOR SECTION 504 PROGRAM.—The provisions of subsections (b)(7)(A), (d)(2), and (i) of section 503 of the Small Business Investment Act of 1958, as amended by this subsection, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of making guarantees under those amended provisions.

(d) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) or 7(b)(4) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 1-year period beginning on the date of enactment of this Act, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(e) USE OF FUNDS FOR 7(a) AND 7(a) EMERGENCY RELIEF LOAN PROGRAMS.—The provisions of paragraphs (2), (18), and (31) of section 7(a) of the Small Business Act, as amended by this title, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of making guarantees under those amended provisions.

SEC. 607. APPROVAL PROCESS.

Notwithstanding any other provision of law, the Administrator of the Small Business Administration may adopt such approval processes as the Administrator determines, after consultation with the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, to be appropriate in order to make assistance under this title and the amendments made by this title available to all eligible small business concerns.

SEC. 608. OTHER SPECIALIZED ASSISTANCE AND MONITORING AUTHORIZED.

(a) ADDITIONAL SBDC AUTHORITY.—

(1) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(A) in subparagraph (S), by striking ''and'' at the end;

(B) in subparagraph (T), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(U) providing individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected, directly or indirectly, by the terrorist attacks on September 11, 2001.''.

(2) WAIVER OF MATCHING REQUIREMENTS.—Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended by inserting before the period the following: '', except that the matching requirements of this paragraph do not apply with respect to any assistance provided under subsection (c)(3)(U)''.

(b) ADDITIONAL SCORE AUTHORITY.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B) is amended—

(1) by inserting ''(i)'' after ''(B)''; and

(2) by adding at the end the following:

''(ii) The functions of the Service Corps of Retired Executives (SCORE) shall include the provision of individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

(c) ADDITIONAL MICROLOAN PROGRAM AUTHORITY.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following:

''(14) ASSISTANCE AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Amounts made available under this subsection may be used by intermediaries to provide individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

(d) ADDITIONAL WOMEN'S BUSINESS DEVELOPMENT CENTER AUTHORITY.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns owned and controlled by women that were adversely affected by the terrorist attacks on September 11, 2001.''; and

(2) in subsection (c), by adding at the end the following:

''(5) WAIVER OF MATCHING REQUIREMENTS.—A recipient organization shall not be subject to the non-Federal funding requirements of paragraph (1) with respect to assistance provided under subsection (b)(4).''.

(e) ADDITIONAL SBIC AUTHORITY.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

''(k) AUTHORITY AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Small business investment companies are authorized and encouraged to provide equity capital and to make loans to small business concerns pursuant to sections 304(a) and 305(a) of the Small Business Investment Act of 1958, respectively, for the purpose of providing assistance to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

SEC. 609. STUDY AND REPORT ON EFFECTS ON SMALL BUSINESS CONCERNS.

(a) STUDY.—

(1) IN GENERAL.—The Office of Advocacy of the Small Business Administration shall conduct annual studies for a 5-year period on the impact of the terrorist attacks perpetrated against the United States on September 11, 2001, on small business concerns, and the effects of assistance provided under this title on such small business concerns.

(2) CONTENTS.—The study conducted under paragraph (1) shall include information regarding—

(A) bankruptcies and business failures that occurred as a result of the events of September 11, 2001, as compared to those that occurred in 1999 and 2000;

(B) the loss of jobs, revenue, and profits in small business concerns as a result of those events, as compared to those that occurred in 1999 and 2000;

(C) the impact of assistance provided under this title to small business concerns adversely affected by those attacks, including information regarding whether—

(i) small business concerns that received such assistance would have remained in business without such assistance;

(ii) jobs were saved due to such assistance; and

(iii) small business concerns that remained in business had increases in employment and sales since receiving assistance.

(b) REPORT.—The Office of Advocacy shall submit a report to Congress on the studies required by subsection (a)(1), specifically addressing the requirements of subsection (a)(2) in September of each of fiscal years 2002 through 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $500,000 for each of fiscal years 2002 through 2006.

SEC. 610. EMERGENCY EQUITABLE RELIEF FOR FEDERAL CONTRACTORS.

(a) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Under guidance issued by the Administrator for Federal Procurement Policy in conjunction with the Administrator of the Small Business Administration, the head of a contracting agency of the United States may increase the price of a contract entered into by the agency that is performed by a small business concern (as defined in section 3 of the Small Business Act) to the extent determined equitable under this section on the basis of loss resulting from security measures taken by the Federal Government at Federal facilities as a result of the terrorist attacks on September 11, 2001.

(2) EXPEDITED ISSUANCE.—Guidance required by paragraph (1) shall be issued under expedited procedures, not later than 20 days after the date of enactment of this Act.

(b) EXPEDITED PROCEDURES.—

(1) IN GENERAL.— The Administrator for Federal Procurement Policy shall prescribe expedited procedures for considering whether to grant an equitable adjustment in the case of a contract of an agency under subsection (a).

(2) REQUIREMENTS.—The procedures required by paragraph (1) shall provide for—

(A) an initial review of the merits of a contractor's request by the contracting officer concerned with the contract;

(B) a final determination of the merits of the contractor's request, including the value of any price adjustment, by the Head of the Contracting Agency, in consultation with the Administrator of the Small Business Administration, taking into consideration the initial review under subparagraph (A); and

(C) payment from the fund established under subsection (d) for the contract's price adjustment.

(3) TIMING.—The procedures required by paragraph (1) shall require completion of action on a contractor's request for adjustment not later than 30 days after the date on which the contractor submits the request to the contracting officer concerned.

(c) AUTHORIZED REMEDIES.—In addition to making a price adjustment under subsection (a), the time for performance of a contract may be extended under this section.

(d) PAYMENT OF ADJUSTED PRICE.—

(1) FUND ESTABLISHED.—The Administrator of the Small Business Administration shall establish a fund for the payment of contract price adjustments under this section. Payments of amounts for price adjustments shall be made out of the fund.

(2) AVAILABILITY.—Notwithstanding any other provision of law, amounts in the fund under this subsection shall remain available until expended.

(e) TERMINATION OF AUTHORITY.—

(1) REQUESTS.—No request for adjustment under this section may be accepted more than 330 days after the date of enactment of this Act.

(2) TERMINATION.—The authority under this section shall terminate 1 year after the date of enactment of this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Small Business Administration to carry out this section, $100,000,000, including funds for administrative expenses and costs. Any funds remaining in the fund established under subsection (d) 1 year after the date of enactment of this Act shall be transferred to the disaster loan account of the United States Small Business Administration.

SEC. 611. REPORTS TO CONGRESS.

(a) REPORTS REQUIRED.—The Administrator of the Small Business Administration shall submit regular reports to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the implementation of this title and the amendments made by this title, including program delivery, staffing, and administrative expenses related to such implementation.

(b) FREQUENCY OF REPORTS.—The reports required by subsection (a) shall be submitted 20 days after the date of enactment of this Act and monthly thereafter until 1 year after the date of enactment of this Act, at which time the reports shall be submitted on a quarterly basis through December 31, 2003.

SEC. 612. EXPEDITED ISSUANCE OF IMPLEMENTING GUIDELINES.

Not later than 20 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue interim final rules and guidelines to implement this title and the amendments made by this title.

SEC. 613. SPECIAL AUTHORIZATIONS OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following:

''(j) SPECIAL AUTHORIZATIONS OF APPROPRIATIONS FOLLOWING TERRORIST ATTACKS.—In addition to any other amounts authorized by this Act for any fiscal year, there are authorized to be appropriated to the Administration, to remain available until expended—

''(1) for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out paragraph (4) of section 7(b), including necessary loan capital and funds for administrative expenses related to making and servicing loans pursuant to that paragraph;

''(2) for fiscal year 2002, $25,000,000, to be used for activities of small business development centers pursuant to section 21(c)(3)(U)—

''(A) $2,500,000 of which shall be used to assist small business concerns (as that term is defined for purposes of section 7(b)(4)) located in the areas of New York and the contiguous areas designated by the President as a disaster area following the terrorist attacks on September 11, 2001; and

''(B) $1,500,000 of which shall be used to assist small business concerns located in areas of Virginia and the contiguous areas designated by the President as a disaster area following those terrorist attacks;

''(3) for fiscal year 2002, $2,000,000, to be used under the Service Corps of Retired Executives program authorized by section 8(b)(1) for the activities described in section 8(b)(1)(B)(ii);

''(4) for fiscal year 2002, $5,000,000 for microloan technical assistance authorized under section 7(m)(14);

''(5) for fiscal year 2002, $2,000,000 to be used for activities of women's business centers authorized by section 29(b)(4);

''(6) for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out paragraphs (2)(E), (18)(C), and (31) of section 7(a), including any funds necessary to offset fees and amounts waived or reduced under those provisions, necessary loan capital, and funds for administrative expenses; and

''(7) for fiscal year 2002, and each fiscal year thereafter, such sums as may be necessary to carry out the 1-year suspension of fees under subsections (b)(7)(A), (d)(2), and (i) of section 503 of the Small Business Investment Act of 1958, in response to the terrorist attacks on September 11, 2001, including any funds necessary to offset fees and amounts waived under those provisions and including funds for administrative expenses.''.

SA 2780. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike clause (iii) of section 168(k)(2)(B) of the Internal Revenue Code of 1986, as added by section 201(a), and insert the following:

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible property used in the transportation of persons or property in the ordinary course of business.

SA 2781. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 2764 proposed by Mr. REID to the amendment SA 2698 submitted by Mr. REID and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE _____—TRAVEL INDUSTRY STABILIZATION

SECTION _01. SHORT TITLE.

This title may be cited as the ''American Travel Industry Stabilization Act''.

SEC. _02. TRAVEL INDUSTRY DISASTER RELIEF.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the actions described in subsection (b) to compensate eligible travel-related businesses.

(b) ACTIONS DESCRIBED.—

(1) IN GENERAL.—Subject to such terms and conditions as the President deems necessary, and upon application, the President is authorized to issue Federal credit instruments to eligible travel-related businesses described in subsection (c) that do not, in the aggregate, exceed $2,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) TIME FOR APPLICATION.—An application for a Federal credit instrument shall be filed by an eligible travel-related business not later than 1 year after the promulgation of regulations.

(3) TERMS OF CREDIT INSTRUMENTS.—A loan guaranteed under this title may be used exclusively for the purpose of meeting obligations and expenses to the extent that an applicant demonstrates—

(A) business operations were directly and adversely affected by the events of September 11, 2001;

(B) the loan guarantee is necessary to meet such obligations;

(C) the inability of the applicant to meet such obligations or expenses is directly attributable to the impact of September 11, 2001; and

(D) the applicant has the ability to repay the loan.

(c) DEFINITIONS.—In this title:

(1) BOARD.—The term ''Board'' means the Air Transportation Stabilization Board established under the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note; P.L. 107–42).

(2) ELIGIBLE TRAVEL-RELATED BUSINESS.—The term ''eligible travel-related business'' means a business that was injured by the Government shutdown of the airline industry following the terrorist attacks on the United States that occurred on September 11, 2001, and that on such date—

(A) had a contractual arrangement with an air carrier to provide goods or services, including those with a contractual relationship with the Airline Reporting Corporation; or

(B) was a nonaeronautical for-profit business operating at an airport engaged in the sale of consumer goods or services to the public under an arrangement with the airport or the airport's governing body.

(3) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means any guarantee or other pledge by the Board issued under section __02(b) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(4) FINANCIAL OBLIGATION.—The term ''financial obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section __02(b).

(5) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulatory) known as rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(6) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of, or interest on, a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(d) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. __03. ADDITIONAL FUNCTIONS FOR THE AIRLINE STABILIZATION BOARD.

(a) ADDITIONAL FUNCTIONS TO STABILIZE THE TRAVEL INDUSTRY.—The Board shall review and make recommendations to the President with respect to applications for Federal credit instruments submitted under section __02(b).

(b) FEDERAL CREDIT INSTRUMENTS.—

(1) IN GENERAL.—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section __02(b) if the Board determines, in its discretion, that—

(A) the obligor is an entity in a travel-related business for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable travel industry in the United States.

(2) TERMS AND LIMITATIONS.—

(A) FORMS, TERMS, AND CONDITIONS.—A Federal credit instrument shall be issued under section __02(b) in such form and such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Board determines appropriate, provided that—

(i) a loan shall be repaid over a period not to exceed 5 years from the date that the loan is guaranteed under this title;

(ii) the Government guarantee shall cover not less than 80 percent of the value of the loan;

(iii) loan guarantees under this title shall be extended based upon the ability of the eligible travel-related business to repay the loan without regard to collateral; and

(iv) any loan origination fee may not exceed 1 percent of the loan value.

(B) PROCEDURES.—Not later than 14 days after the date of enactment of this title, the Director of the Office of Management and Budget, in consultation with the Board, shall issue regulations setting forth procedures for application and minimum requirements.

(c) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent feasible and practicable, as provided in paragraphs (2) and (3), the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(e) AUTHORIZATION OF FUNDS.—Congress authorizes and hereby appropriates such sums as are necessary to carry out the purposes of this title.

SA 2782. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 622 to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TREATMENT OF PAYMENTS UNDER EMERGENCY SUPPLEMENTAL ACT, 2000.

(a) IN GENERAL.—Chapter 2 of title II of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 547) is amended by adding at the end the following new section:

''SEC. 2205. TREATMENT OF CERTAIN PAYMENTS. (a) PAYMENTS EXCLUDED FROM GROSS INCOME.—

''(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount of any payment under this chapter with respect to west coast groundfish fishery not otherwise excludable from gross income under such Code.

''(2) DENIAL OF DOUBLE BENEFIT.—Paragraph (1) shall not apply to any amount if under such Code—

''(A) a deduction or credit is allowed with respect to such amount, or

''(B) an increase in the adjusted basis of any property results from such amount.

''(b) PAYMENTS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any payment described in subsection (a)(1) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2000.

SA 2783. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VI—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 601. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000 AND 2001.—'' and inserting ''RULE FOR 2000, 2001, AND 2002.—'', and

(2) by striking ''during 2000 or 2001,'' and inserting ''during 2000, 2001, or 2002,''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000 or 2001'' and inserting ''during 2000, 2001, or 2002''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 602. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2002,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2003'', ''2004'', and ''2005'', respectively, and

(2) in subsection (e), by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause

''(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2006.''

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking ''and before January 1, 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after December 31, 2001.

SEC. 603. CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after December 31, 2001.

SEC. 604. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2001'' and inserting ''2002''.

(b) INCREASE IN AGE CEILING FOR QUALIFIED FOOD STAMP RECIPIENTS.—Section 51(d)((8)(A)(i) (defining qualified food stamp recipient) is amended by striking ''age 25'' and inserting ''age 51''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 605. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2001'' and inserting ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 606. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2002,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2003'', ''2004'', and ''2005'', respectively, and

(2) in subsection (f), by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to property placed in service after December 31, 2001.

SEC. 607. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2002'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 608. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, and 2001'' and inserting ''2000, 2001, and 2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 609. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2001.

SEC. 610. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812, as amended by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, is amended to read as follows:

''(f) APPLICATION OF SECTION.—This section shall not apply to benefits for services furnished—

''(1) on or after September 30, 2001, and before January 1, 2002, and

''(2) after December 31, 2002.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2000.

SEC. 611. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY IN CERTAIN YEARS.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

''(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO FOR CERTAIN YEARS.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company's taxable years beginning in 2001 or 2002.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 612. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2002'' each place it appears and inserting ''2003''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, or 2001'' each place it appears and inserting ''1998, 1999, 2001, or 2002''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2001'' and inserting ''2001, and 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 613. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking ''January 1, 2002'' and inserting ''January 1, 2003'', and

(B) by striking ''December 31, 2001'' and inserting ''December 31, 2002''.

(2) Section 954(h)(9) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2003''.

(b) LIFE INSURANCE AND ANNUITY CONTRACTS.—

(1) IN GENERAL.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

''(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

''(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

''(II) the reserve determined under paragraph (5).

''(ii) RULING REQUEST, ETC.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 614. REPEAL OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

(a) IN GENERAL.—Subsection (e) of section 4101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

Subtitle B—Temporary Assistance for Needy Families

SEC. 621. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

''(H) REAUTHORIZATION OF GRANTS FOR FISCAL YEAR 2002.—Notwithstanding any other provision of this paragraph—

''(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

''(ii) subparagraph (G) shall be applied as if '2002' were substituted for '2001'; and

''(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.''.

SEC. 622. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking ''and 2001'' and inserting ''2001, and 2002''; and

(2) in paragraph (3)(C)(ii), by striking ''2001'' and inserting ''2002''.

SA 2784. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. INVOLUNTARY CONVERSION RELIEF FOR PRODUCERS FORCED TO SELL LIVESTOCK DUE TO WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.

(a) INCOME INCLUSION RULES.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to general rule for taxable year of inclusion) is amended to read as follows:

''(e) SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.—

''(1) IN GENERAL.—In the case of income derived from the sale or exchange of livestock in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer may elect to include such income for the taxable year following two full taxable years in which the weather-related conditions or forced sales caused by

Federal land management agency policy or action which resulted in such sale or exchange do not exist if such taxpayer establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for—

''(A) the weather-related conditions that resulted in the area being designated as eligible for assistance by the Federal Government, or

''(B) forced sales resulting from Federal land management agency policy or action.

''(2) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).

''(3) SPECIAL RULES FOR DROUGHT DESIGNATIONS.—For purposes of this subsection, areas may be designated as eligible for drought condition assistance—

''(A) by Federal Government declaration, or

''(B) through Farm Service Agency flash reports as verified and approved by the Farm Service Agency director of the State in which such condition exists.''.

(b) RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.—

(1) IN GENERAL.—Section 1033(a)(2)(B) of the Internal Revenue Code of 1986 (relating to period within which property must be replaced) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) in the case of an involuntary conversion described in subsection (e), 2 years after the close of the taxable year following the year in which any part of the gain upon the conversion is realized and in which weather-related conditions or forced sales resulting from Federal land management agency policy or action have ended, or''.

(2) INVOLUNTARY CONVERSION DESCRIBED.—Subsection (e) of section 1033 of such Code (relating to involuntary conversions) is amended to read as follows:

''(e) LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS OR FEDERAL LAND MANAGEMENT AGENCY POLICY OR ACTION.—For purposes of this subtitle, the sale or exchange of livestock (other than poultry) held by a taxpayer in excess of the number the taxpayer would sell if he followed usual business practices, shall be treated as an involuntary conversion to which this section applies if such livestock are sold or exchanged by the taxpayer solely on account of weather-related conditions or forced sales caused by Federal land management agency policy or action.''.

(3) CONVERSION BY HEIRS.—Section 1033(a)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) CONVERSION OF CERTAIN PROPERTY BY HEIRS.—In the case of an involuntary conversion of property described in subsection (e), if the taxpayer dies during the period specified in subparagraph (B), the requirements of subparagraph (A) shall be satisfied if the decedent's—

''(i) personal representative,

''(ii) the beneficiary of the converted property, if no personal representative exists, or

''(iii) the trustee in the case of a trust,

replaces the property within such period.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales or exchanges after the date of the enactment of this Act.

SA 2785. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 101(e) of the amendment and all that follows through title III and insert the following:

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TECHNICALS.—The amendments made by subsection (b) shall take effect as if included in the amendment made by section 101(b)(1) of the Economic Growth and Tax Relief Reconciliation Act of 2001.

TITLE II—TEMPORARY BUSINESS RELIEF PROVISIONS

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after December 31, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

''(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

''(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

''(i) IN GENERAL.—The term 'qualified property' includes property—

''(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) which has a recovery period of at least 10 years or is transportation property, and

''(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

''(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after December 31, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

TITLE III—ASSISTANCE FOR MEDICAID COVERAGE

SEC. 301. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEARS 2002 AND 2003.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP FOR FISCAL YEAR 2002.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2003, before the application of this section.

(c) GENERAL 3 PERCENTAGE POINTS INCREASE.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for each calendar quarter in fiscal years 2002 and 2003, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 3 percentage points.

(d) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 or fiscal year 2003 (and any subsequent such calendar quarters after the first such calendar quarter for which the State is a high unemployment State regardless of whether the State continues to be a high unemployment State for the subsequent such calendar quarters) shall be increased (after the application of subsections (a), (b), and (c)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive month period beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(B) AVERAGE WEIGHTED UNEMPLOYMENT RATE DEFINED.—For purposes of subparagraph (A), the ''average weighted unemployment rate'' for a period is—

(i) the sum of the seasonally adjusted number of unemployed civilians in each State and the District of Columbia for the period; divided by

(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.

(e) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal years 2002 and 2003, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

(f) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(g) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (c) or (d) or an increase in a cap amount under subsection (e) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

(h) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) IMPLEMENTATION.—The Secretary of Health and Human Services shall increase payments to States under title XIX for the second, third, and fourth calendar quarters of fiscal year 2002 to take into account the increases in the FMAP provided for in this section for fiscal year 2002 (including the first quarter of such fiscal year) and shall increase payments to States under such title for each calendar quarter of fiscal year 2003 to take into account the increases in the FMAP provided for in this section for fiscal year 2003.

SA 2786. Mr. DORGAN (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. EXCEPTION FROM TAX ON RECOGNIZED BUILT-IN GAIN OF S CORPORATIONS.

(a) IN GENERAL.—Section 1374 of the Internal Revenue Code of 1986 (relating to tax imposed on certain built-in gains) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) EXCEPTION FOR REINVESTED AMOUNTS.—

''(1) IN GENERAL.—If an existing S corporation has a net recognized built-in gain for any taxable year in the recognition period and elects the application of this subsection—

''(A) the tax (if any) imposed by subsection (a) on such gain shall not be imposed until the second succeeding taxable year, and

''(B) the amount of such gain on which tax is imposed by subsection (a) for such second succeeding taxable year shall not exceed the amount equal to the excess of—

''(i) the amount realized on the disposition of those assets that resulted in such gain, over

''(ii) the excess of—

''(I) the aggregate qualified expenditures made by the S corporation during the nonrecognition period, over

''(II) the portion (if any) of such expenditures previously taken into account under this subsection.

''(2) QUALIFIED EXPENDITURES.—For purposes of this subsection, the term 'qualified expenditures' means—

''(A) amounts chargeable to capital account for property used in a trade or business of the S corporation,

''(B) payments of principal and interest on pre-effective date debt of the S corporation, and

''(C) amounts distributed to shareholders to the extent such amounts do not exceed the aggregate of such shareholders' tax imposed by this chapter (and State and local taxes) on amounts attributable to the disposition of those assets that resulted in such net recognized built-in gain.

Payments of principal as part of a refinancing of pre-effective date debt shall not be taken into account under subparagraph (B).

''(3) NONRECOGNITION PERIOD.—For purposes of this subsection, the term 'nonrecognition period' means, with respect to a taxable year for which an S corporation has a net recognized built-in gain, such taxable year and the first and second succeeding taxable years.

''(4) PRE-EFFECTIVE DATE DEBT.—For purposes of paragraph (2)(B), the term 'pre-effective date debt' means—

''(A) debt incurred before the date of the enactment of this paragraph, and

''(B) debt incurred on or after such date to refinance debt described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent that (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does

not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

''(5) ANTI-ABUSE RULE.—Solely for purposes of determining the treatment of distributions to shareholders under section 1368 during the recognition period—

''(A) any increase in the accumulated adjustment account and shareholder basis by reason of the disposition of those assets that resulted in the net recognized built-in gain shall not exceed the amounts described in paragraph (2)(C), and

''(B) any increase in such account and shareholder basis which is not permitted under subparagraph (A) shall occur immediately after the recognition period.

''(6) EXISTING S CORPORATION.—The term 'existing S corporation' means any S corporation for which an election under section 1362 is filed before October 12, 2001.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2787. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . INCLUSION OF KENTUCKY IN LIST OF STATES PERMITTED TO OPERATE A SEPARATE RETIREMENT SYSTEM.

Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky,'' after ''Illinois,''.

SA 2788. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 7 YEARS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) SPECIAL RULE FOR CERTAIN LOSSES.—

''(i) IN GENERAL.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2000, 2001, or 2002, subparagraph (A)(i) shall be applied by substituting '7' for '2' and subparagraph (F) shall not apply.

''(ii) PER YEAR LIMITATION.—For purposes of the 6th and 7th taxable year preceeding the taxable year of such loss, the amount of net operating losses to which clause (i) may apply for any taxable year shall not exceed $50,000,000.''

(b) ELECTION TO DISREGARD 7-YEAR CARRYBACK.—Section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ELECTION TO DISREGARD 7-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 7-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) of the Internal Revenue Code of 1986 (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

''(A) the amount of such deduction shall not exceed the sum of—

''(i) the lesser of—

''(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

''(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

''(ii) the lesser of—

''(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending during 2000, 2001, or 2002, or

''(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning before January 1, 2003.

(d) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 1999.

SA 2789. Mr. HATCH (for himself, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 7 YEARS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) SPECIAL RULE FOR CERTAIN LOSSES.—

''(i) IN GENERAL.—In the case of a taxpayer which has a net operating loss for any taxable year ending during 2000, 2001, or 2002, subparagraph (A)(i) shall be applied by substituting '7' for '2' and subparagraph (F) shall not apply.

''(ii) PER YEAR LIMITATION.—For purposes of the 6th and 7th taxable year preceeding the taxable year of such loss, the amount of net operating losses to which clause (i) may apply for any taxable year shall not exceed $50,000,000.''

(b) ELECTION TO DISREGARD 7-YEAR CARRYBACK.—Section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ELECTION TO DISREGARD 7-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 7-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) of the Internal Revenue Code of 1986 (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

''(A) the amount of such deduction shall not exceed the sum of—

''(i) the lesser of—

''(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carrybacks described in clause (ii)(I)), or

''(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

''(ii) the lesser of—

''(I) the amount of such deduction attributable to carrybacks of net operating losses for taxable years ending during 2000, 2001, or 2002, or

''(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning before January 1, 2003.

(d) TEMPORARY FOREIGN TAX CREDIT CLARIFICATION.—

(1) IN GENERAL.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by striking ''Any amount'' and by inserting ''(1) GENERAL RULE.—Any amount'' and by adding new paragraph (2) to read as follows:

''(2) TEMPORARY RULE FOR CARRYBACK AND CARRYFORWARD OF EXCESS FOREIGN TAXES.—For purposes of any taxable year ending in 2000, 2001 or 2002 and any of the preceeding 7 taxable years, the provisions of paragraph (1) shall apply, except that the carryforward period shall extend to the tenth succeeding taxable year instead of the fifth succeeding taxable year.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply upon enactment.

(e) EFFECTIVE DATE.—Except as provided in subsections (c) and (d), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 1999.

SA 2790. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment

SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Section 121(d) (relating to special rules) is amended by adding at the end the following:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—The running of the 5-year period described in subsection (a) shall be suspended with respect to an individual during any time that such individual or such individual's spouse is serving on qualified official extended duty as a member of a uniformed service or of the Foreign Service.

''(B) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any period of extended duty during which the member of a uniformed service or the Foreign Service is under a call or order compelling such duty at a duty station which is a least 50 miles from the property described in subparagraph (A) or compelling residence in Government furnished quarters while on such duty.

''(ii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) UNIFORMED SERVICE.—The term 'uniformed service' has the meaning given such term by section 101(a)(5) of title 10, United States Code.

''(ii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges on or after the date of the enactment of this Act.

SA 2791. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SECTION 1. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution from an individual retirement account to an organization described in section 170(c).

''(B) SPECIAL RULES RELATING TO CHARITABLE REMAINDER TRUSTS, POOLED INCOME FUNDS, AND CHARITABLE GIFT ANNUITIES.—

''(i) IN GENERAL.—No amount shall be includible in gross income by reason of a qualified charitable distribution from an individual retirement account—

''(I) to a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)),

''(II) to a pooled income fund (as defined in section 642(c)(5)), or

''(III) for the issuance of a charitable gift annuity (as defined in section 501(m)(5)).

The preceding sentence shall apply only if no person holds an income interest in the amounts in the trust, fund, or annuity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

''(ii) DETERMINATION OF INCLUSION OF AMOUNTS DISTRIBUTED.—In determining the amount includible in the gross income of any person by reason of a payment or distribution from a trust referred to in clause (i)(I) or a charitable gift annuity (as so defined), the portion of any qualified charitable distribution to such trust or for such annuity which would (but for this subparagraph) have been includible in gross income—

''(I) shall be treated as income described in section 664(b)(1), and

''(II) shall not be treated as an investment in the contract.

''(iii) NO INCLUSION FOR DISTRIBUTION TO POOLED INCOME FUND.—No amount shall be includible in the gross income of a pooled income fund (as so defined) by reason of a qualified charitable distribution to such fund.

''(C) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement account—

''(i) which is made on or after the date that the individual for whose benefit the account is maintained has attained age 59½, and

''(ii) which is made directly from the account to—

''(I) an organization described in section 170(c), or

''(II) a trust, fund, or annuity referred to in subparagraph (B).

''(D) DENIAL OF DEDUCTION.—The amount allowable as a deduction under section 170 to the taxpayer for the taxable year shall be reduced (but not below zero) by the sum of the amounts of the qualified charitable distributions during such year which would be includible in the gross income of the taxpayer for such year but for this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001, and before January 1, 2004.

SA 2792. Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

''(A) IN GENERAL.—In the case of a charitable contribution of apparently wholesome food by a taxpayer—

''(i) paragraph (3)(A) shall be applied without regard to whether or not the contribution is made by a C corporation, and

''(ii) in the case of a taxpayer other than a C corporation, the total deductions under subsection (a) with respect to such contributions for any taxable year shall not exceed the percentage specified in subsection (b)(2) of the taxpayer's net income from the trade or business, computed without regard to this section.

''(B) LIMIT ON REDUCTION.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3)(A), as modified by subparagraph (A) of this paragraph), the amount of the reduction determined under paragraph (3)(B) shall not exceed the amount determined under clause (ii) thereof.

''(C) DETERMINATION OF BASIS.—For purposes of this paragraph, if a taxpayer—

''(i) does not account for inventories under section 471, and

''(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B)(ii), to treat the basis of any qualified contribution of such taxpayer as being equal to 25 percent of the fair market value of such contribution.

''(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraphs (A) and (B) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(i) without regard to such internal standards or such lack of market and

''(ii) by taking into account the price at which the same or substantially the same food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(E) APPARENTLY WHOLESOME FOOD.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.

''(F) TERMINATION.—This paragraph shall not apply to any contribution made during any taxable year beginning after December 31, 2004.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2793. Mr. GRAMM (for himself, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, then, for purposes of this title, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) stock in a corporation, and

''(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) OPTIONS.—Any option or other right to acquire an interest in property.

''(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

''(D) CERTAIN PREFERRED STOCK.—Stock which is preferred as to dividends and does not participate in corporate growth to any significant extent.

''(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

''(i) an S corporation (within the meaning of section 1361),

''(ii) a personal holding company (as defined in section 542), and

''(iii) a foreign corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

''(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest ⅒ of 1 percentage point.

''(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) a substantial improvement to property,

''(B) in the case of stock of a corporation, a substantial contribution to capital, and

''(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

''(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

''(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(e) CERTAIN CONDUIT ENTITIES.—

''(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

''(i) a regulated investment company (within the meaning of section 851),

''(ii) a real estate investment trust (within the meaning of section 856), and

''(iii) a common trust fund (within the meaning of section 584).

''(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

''(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

''(1) to secure or increase an adjustment under subsection (a), or

''(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

''(h) DEFINITIONS.—For purposes of this section—

''(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

''(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.''

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of the Internal Revenue Code of 1986 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

''(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

"For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 2001, see section 1022(a)(1)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after the date of the enactment of this Act.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after the date of the enactment of this Act from a related person (as defined in section 1022(f)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

SA 2794. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Risk Insurance Act of 2001''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term ''business interruption coverage''—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations thereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term ''insured loss''—

(A) means any loss resulting from an act of terrorism that is covered by primary property and casualty insurance, including business interruption coverage, issued by a participating insurance company, if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code) or to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; and

(B) excludes any life or health insurance coverage.

(4) MARKET SHARE.—

(A) IN GENERAL.—The ''market share'' of a participating insurance company shall be calculated using the total amount of direct written property and casualty insurance premiums for the participating insurance company during the 2-year period preceding the year in which the subject act of terrorism occurred (or during such other period for which adequate data are available, as determined by the Secretary), as a percentage of the aggregate of all such property and casualty insurance premiums industry-wide during that period.

(B) ADJUSTMENTS.—The Secretary may adjust the market share of a participating insurance company under subparagraph (A), as necessary to reflect current market participation of that participating insurance company.

(5) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(6) PARTICIPATING INSURANCE COMPANY.—The term ''participating insurance company'' means any insurance company, including any subsidiary or affiliate thereof—

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State, and was so licensed or admitted on September 11, 2001, or had pending on that date an application for such license or admission; or

(ii) is not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(B) that receives direct premiums for any type of commercial property and casualty insurance coverage or that, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program with regard to personal lines of property and casualty insurance; and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) PARTICIPATING INSURANCE COMPANY DEDUCTIBLE.—The term ''participating insurance company deductible'' means—

(A) a participating insurance company's market share, multiplied by $10,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002; and

(B) a participating insurance company's market share, multiplied by $15,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending at midnight on December 31, 2003, if the Program is extended in accordance with section 6.

(8) PERSON.—The term ''person'' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(9) PROGRAM.—The term ''Program'' means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(10) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance''—

(A) means commercial lines of property and casualty insurance;

(B) includes personal lines of property and casualty insurance, if a notification is made in accordance with paragraph (6)(B); and

(C) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); or

(ii) private mortgage insurance, as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901).

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(12) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(13) UNITED STATES.—The term ''United States'' means the several States, and includes the territorial sea of the United States.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (e), unless—

(1) a person that suffers an insured loss, or a person acting on behalf of that person, files a claim with a participating insurance company;

(2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy covering an insured loss that is issued on or after the date of enactment of this Act, in the policy, at the time of offer, purchase, and renewal of the policy; and

(B) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY PARTICIPATION; MANDATORY AVAILABILITY.—Each insurance company that meets the definition of a participating insurance company under section 3—

(1) shall participate in the Program;

(2) shall make available in all of its property and casualty insurance policies (in all of its participating lines), coverage for insured losses; and

(3) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(d) PARTICIPATION BY SELF INSURED ENTITIES.—

(1) DETERMINATION BY THE SECRETARY.—The Secretary may, in consultation with the NAIC, establish procedures to allow participation in the Program by municipalities and other governmental or quasi-governmental entities (and by any other entity, as the Secretary deems appropriate) operating through self insurance arrangements that were in existence on September 11, 2001, but only if the Secretary makes a determination with regard to participation by any such entity before the occurrence of an act of terrorism in which the entity incurs an insured loss.

(2) PARTICIPATION.—If the Secretary makes a determination to allow an entity described in paragraph (1) to participate in the Program, all reports, conditions, requirements, and standards established by this Act for participating insurance companies shall apply to any such entity, as determined to be appropriate by the Secretary.

(e) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to the cap on liability under paragraph (2) and the limitation under paragraph (6), the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002—

(i) shall be equal to 80 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) does not exceed $10,000,000,000; and

(ii) shall be equal to 90 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) exceeds $10,000,000,000.

(B) EXTENSION PERIOD.—If the Program is extended in accordance with section 6, the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003 and ending at midnight on December 31, 2003, shall be calculated in accordance with clauses (i) and (ii) of subparagraph (A), subject to the cap on liability in paragraph (2) and the limitation under paragraph (6).

(C) PRO RATA SHARE.—If, during the period described in subparagraph (A) (or during the period described in subparagraph (B), if the Program is extended in accordance with section 6), the aggregate insured losses for that period exceed $10,000,000,000, the Secretary shall determine the pro rata share for each participating insurance company of the Federal share of compensation for insured losses calculated under subparagraph (A).

(D) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government for those insured losses under any other Federal insurance or reinsurance program.

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000 during any period referred to in subparagraph (A) or (B) of paragraph (1)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(6) IN-FORCE REINSURANCE AGREEMENTS.—For policies covered by reinsurance contracts in force on the date of enactment of this Act, until the in-force reinsurance contract is renewed, amended, or has reached its 1-year anniversary date, any Federal share of compensation due to a participating insurance company for insured losses during the effective period of the Program shall be shared—

(A) with all reinsurance companies to which the participating insurance company has ceded some share of the insured loss pursuant to an in-force reinsurance contract; and

(B) in a manner that distributes the Federal share of compensation for insured losses between the participating insurance company and the reinsurance company or companies in the same proportion as the insured losses would have been distributed if the Program did not exist.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses that is the responsibility of participating insurance companies and the percentage that is the responsibility of the Federal Government under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program,

to effectuate the insured loss sharing provisions contained in section 4;

(5) each participating insurance company that incurs insured losses shall pay its pro rata share of insured losses, in accordance with section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing provisions contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services, as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate at midnight on December 31, 2002, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, until midnight on December 31, 2003; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), the Program shall terminate at midnight on December 31, 2003.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates at midnight on December 31, 2002.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act, in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) REPEAL; SAVINGS CLAUSE.—This Act, other than section 10, is repealed at midnight on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (d) of this section and sections 4(e)(4), 4(e)(5), 5(a)(1), 5(c), 5(d), and 5(e) (as in effect on the day before the date of such repeal), and applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (d) of this section is in effect; or

(2) to prevent the availability of funding under section 9(b) during any period in which the authority of the Secretary under subsection (d) of this section is in effect.

(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary should make any determination under subsection (a) in sufficient time to enable participating insurance companies to include coverage for acts of terrorism in their policies for 2003.

(g) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(h) REPORTS REGARDING TERRORISM RISK INSURANCE PREMIUMS.—

(1) REPORT TO THE NAIC.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, each participating insurance company shall submit a report to the NAIC that states the premium rates charged by that participating insurance company during the preceding 6-month period for insured losses covered by the Program, and includes an explanation of and justification for those rates.

(2) REPORTS FORWARDED.—The NAIC shall promptly forward copies of each report submitted under paragraph (1) to the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the Comptroller General of the United States.

(3) AGENCY REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary, the Secretary of Commerce, and the Chairman of the Federal Trade Commission shall submit joint reports to Congress and the Comptroller General of the United States summarizing and evaluating the reports forwarded under paragraph (2).

(B) TIMING.—The reports required under subparagraph (A) shall be submitted—

(i) 9 months after the date of enactment of this Act; and

(ii) 12 months after the date of submission of the first report under clause (i).

(4) GAO EVALUATION AND REPORT.—

(A) EVALUATION.—The Comptroller General of the United States shall evaluate each report submitted under paragraph (3), and upon request, the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the NAIC shall provide to the Comptroller all documents, records, and any other information that the Comptroller deems necessary to carry out such evaluation.

(B) REPORT TO CONGRESS.—Not later than 90 days after receipt of each report submitted under paragraph (3), the Comptroller General of the United States shall submit to Congress a report of the evaluation required by subparagraph (A).

(i) STUDY OF RESERVES FOR CERTAIN TYPES OF INSURANCE FOR TERRORIST OR OTHER CATASTROPHIC EVENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study of issues relating to permitting insurance companies that provide property and casualty insurance, life insurance, and other lines of insurance coverage to establish deductible reserves against losses for future acts of terrorism, including—

(A) whether such tax-favored reserves would promote—

(i) insurance coverage of risks of terrorism; and

(ii) the accumulation of additional resources needed to satisfy potential claims resulting from such risks;

(B) the lines of business for which such reserves would be appropriate, including whether such reserves for property and casualty insurance should be applied to personal or commercial lines of business;

(C) how the amount of such reserves would be determined;

(D) how such reserves would be administered;

(E) a comparison of the Federal tax treatment of such reserves with other insurance reserves permitted under Federal tax laws;

(F) an analysis of the use of tax-favored reserves for catastrophic events, including acts of terrorism, under the tax laws of foreign countries; and

(G) whether it would be appropriate to permit similar reserves for other future catastrophic events, such as natural disasters, taking into account the factors under the preceding paragraphs.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under paragraph (1), together with recommendations for amending the Internal Revenue Code of 1986, or other appropriate action.

SEC. 7. PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this Act;

(B) during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate

a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 6 (including any period during which the authority of the Secretary under section 6(d) is in effect), books and records of any participating insurance company that are relevant to the Program shall be provided, or caused to be provided, to the Secretary or the designee of the Secretary, upon request by the Secretary or such designee, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS REGARDING CAPACITY BUILDING.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty insurance coverage for terrorism risk.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS; PAYMENT AUTHORITY.

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Program, to remain available until expended.

(b) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts, and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for such property damage, personal injury, or death, except as provided in subsection (d).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (d).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined pursuant to paragraph (1), is inconsistent with or otherwise preempted by Federal law.

(c) PUNITIVE DAMAGES.—Any amounts awarded in a civil action described in subsection (a)(1) that are attributable to punitive damages shall not count as insured losses for purposes of this Act.

(d) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(e) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period provided for under section 6.

SA 2795. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 622 to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS.

(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death).

(4) Section 2201 (relating to combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term ''qualified hazardous duty area'' means Somalia, if for the period beginning on December 3, 1992, and ending before March 31, 1995, any member of the Armed Forces of the United States was entitled to special pay under section 310 of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes such country only during the period such entitlement was in effect.

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

(2) SPECIAL RULE.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 2003, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 2003.

SA 2796. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V add the following:

SEC. ___. EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES.

(a) IN GENERAL.—The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

''(1) IN GENERAL.—The term 'qualified foster care payment' means any payment made pursuant to a foster care program of a State or political subdivision thereof—

''(A) which is paid by—

''(i) a State or political subdivision thereof, or

''(ii) a qualified foster care placement agency, and''.

(b) QUALIFIED FOSTER INDIVIDUALS TO INCLUDE INDIVIDUALS PLACED BY QUALIFIED PLACEMENT AGENCIES.—Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:

''(B) a qualified foster care placement agency.''

(c) QUALIFIED FOSTER CARE PLACEMENT AGENCY DEFINED.—Subsection (b) of section 131 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) QUALIFIED FOSTER CARE PLACEMENT AGENCY.—The term 'qualified foster care placement agency' means any placement agency which is licensed or certified by—

''(A) a State or political subdivision thereof, or

''(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2797. Mr. BOND submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS.

(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death).

(4) Section 2201 (relating to combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term ''qualified hazardous duty area'' means Somalia, if for the period beginning on December 3, 1992, and ending before March 31, 1995, any member of the Armed Forces of the United States was entitled to special pay under section 310

of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes such country only during the period such entitlement was in effect.

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

(2) SPECIAL RULE.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before April 15, 2003, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section) may, nevertheless, be made or allowed if claim therefor is filed on or before April 15, 2003.

SA 2798. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following:

TITLE ____—TRAVEL AND TOURISM PROMOTION

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Rediscover America Act of 2002''.

SEC. ___02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the revitalization of the travel and tourism industry following the September 11, 2001, terrorist attacks on the United States is a national economic necessity;

(2) in light of the effect that the attacks have had on the tourism industry, it is important to put measures immediately into place to restore consumer confidence in travel and in the economy;

(3) safety and security in travel is of utmost importance in order to restore consumer confidence in the industry;

(4) the travel and tourism industry has a large impact on the U.S. economy—adding nearly 5 percent to the GDP, generating more than $578,000,000 in revenues, supporting more than 17,000,000 million jobs, and providing a $14,000,000 trade surplus for the country; and

(5) more than 95 percent of the businesses in travel and tourism are small to medium sized enterprises.

(b) PURPOSE.—The purpose of this title is to assist the travel and tourism industry in its effort to restore consumer confidence in the wake of the September 11, 2001, terrorist attacks on the United States.

SEC. ___03. UNITED STATES TRAVEL AND TOURISM PROMOTION BUREAU.

(a) ESTABLISHMENT.—The Secretary of Commerce shall designate an employee of the Department of Commerce to be responsible for establishing a Travel and Tourism Promotion Board.

(b) PURPOSE.—The Bureau shall—

(1) work to help restore consumer confidence in travel in the two years following the September 11, 2001, terrorist attacks on the United States; and

(2) work in conjunction with private industry and industry employee representatives to design and implement public service announcements and advertising to promote tourism, encouraging Americans and foreign visitors to rediscover the nation's treasures.

(c) POWERS.—To carry out the purposes of this title, the Bureau may—

(1) distribute funds to any travel and tourism related organization or association;

(2) enter into contracts with private organizations or business;

(3) utilize up to three existing employees of the Department of Commerce, as may be assigned by the Secretary; and

(4) conduct any and all acts necessary and proper to carry out the purposes of this title.

SEC. ___04. UNITED STATES TRAVEL AND TOURISM PROMOTION BUREAU ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a United States Travel and Tourism Promotion Bureau Advisory Committee for the purpose of recommending activities to the Bureau.

(b) MEMBERS.—Within 30 days after enactment of this Act, the Secretary of Commerce shall appoint the members of the Advisory Committee as follows:

(1) 1 member representing the aviation industry;

(2) 1 member representing airline workers;

(3) 1 member representing the hotel industry;

(4) 1 member representing hotel workers;

(5) 1 member representing the restaurant industry;

(6) 1 member representing restaurant workers;

(7) 1 member representing amusement parks; and

(8) 1 member of the Rural Tourism Foundation;

(c) CHAIR.—The Advisory Committee shall elect a Chair for an initial term of 6 months. After such initial term, the Chair shall be elected for such term as the Committee may designate.

(d) VACANCIES.—If a vacancy occurs in the membership of the Committee, the Secretary of Commerce shall fill the vacancy, provided that the membership of the Committee remains consistent with subsection (b).

SEC. ___05. QUARTERLY REPORTING PROVISION.

Not less than once every 90 days, the Bureau shall report to the U.S. Senate Committee on Commerce, Science and Transportation and the U.S. House of Representatives Committee on Energy and Commerce on—

(1) the Bureau's activities to promote travel and tourism; and

(2) the state of the travel and tourism industry.

SEC. ___06. SUNSET.

The provisions of this title shall terminate two years after the date of enactment of this Act.

SEC. ___07. AUTHORIZATION OF APPROPRIATIONS.

(a) APPROPRIATION.—Of the funds provided in Public Law 107–38, not less than $60,000,000 shall be used for the purpose of carrying out this title.

(b) AVAILABILITY OF FUNDS.—The funds made available pursuant to subsection (a) shall be available to be expended in fiscal years 2002, 2003, and 2004.

SA 2799. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . METHOD OF ACCOUNTING FOR DEPOSITS RECEIVED BY ACCRUAL BASIS TOUR OPERATORS.

In the case of a tour operator using an accrual method of accounting, amounts received from or on behalf of passengers in advance of the departure of a tour arranged by such operator—

(1) shall be treated as properly accounted for under the Internal Revenue Code of 1986 if they are accounted for under a method permitted by section 3 of Revenue Procedure 71–21, and

(2) for purposes of Revenue Procedure 71–21, shall be deemed earned as of the date the tour departs.

SA 2800. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. ___. ACCESS TO UNUSED ACCOUNT BALANCES IN FLEXIBLE SPENDING ARRANGEMENTS BY INVOLUNTARILY SEPARATED EMPLOYEES.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) ACCESS TO UNUSED ACCOUNT BALANCE IN FSA BY CERTAIN INVOLUNTARILY SEPARATED EMPLOYEES.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under such arrangement an individual (or any designated heir of such individual) during a qualified period has the option of—

''(A) receiving as a cash payment any unused account balance in such arrangement with respect to such individual remaining on the date of an involuntary separation of employment, the receipt of which is includible in gross income, or

''(B) applying such unused account balance to the payment of any premium for health insurance coverage of such individual (including any premium required for coverage described in section 4980B(f)) in the same manner as the payment of any allowable expense under such arrangement prior to such qualified period, the receipt of which is not includible in gross income.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) INVOLUNTARY SEPARATION FROM EMPLOYMENT.—The term 'involuntary separation from employment' includes separation caused by disability or death.

''(B) QUALIFIED PERIOD.—The term 'qualified period' means a period beginning on the date of an involuntary separation from employment and ending on the earlier of—

''(i) the date which is 60 days after such date of involuntary separation, or

''(ii) the last day of the calendar year in which such date of involuntary separation occurs.

''(C) UNUSED ACCOUNT BALANCE.—The term 'unused account balance' means the excess (if any) of—

''(i) an amount equal to—

''(I) ½ of the agreed upon foregone remuneration of the individual for the calendar year under a flexible spending or similar arrangement, times

''(II) the number of months in such calendar year ending with the month in which the date of the involuntary separation from employment of such individual occurs, over

''(ii) the amount of allowable expenses of such individual for such calendar year paid or accrued under such arrangement prior to such date.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to involuntary separations after December 31, 2001.

SA 2801. Mr. SCHUMER (for himself, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the

Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VI—TAX INCENTIVES FOR NEW YORK CITY

SEC. 601. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter Y—New York Liberty Zone Benefits

''Sec. 1400L. Tax benefits for New York Liberty Zone.

"SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

''(a) EXPANSION OF WORK OPPORTUNITY TAX CREDIT.—

''(1) IN GENERAL.—For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

''(2) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'New York Liberty Zone business employee' means, with respect to any taxable year which includes any portion of the period beginning after September 10, 2001, and ending before January 1, 2004, any employee of a New York Liberty Zone business if—

''(i) substantially all the services performed during such portion of such taxable year by such employee for such business are performed in an area described in subparagraph (B) in a trade or business of such business,

''(ii) the annual rate of remuneration received by such employee for such services during such portion of such taxable year does not exceed $200,000, and

''(iii) with respect to any employee of such business described in subparagraph (B)(i)(II), such employee is designated by such business as a New York Liberty Zone business employee for purposes of this subsection, except that the total employees so designated for any taxable year shall not exceed the lesser of 250 employees or the excess of—

''(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

''(II) the number of employees of such business treated as New York Liberty Zone business employees for such taxable year with respect to any business located in the New York Liberty Zone.

The Secretary may require any business to have the number determined under clause (iii)(I) verified by the New York State Department of Labor.

''(B) NEW YORK LIBERTY ZONE BUSINESS.—The term 'New York Liberty Zone business' means any business which is—

''(i) located in the New York Liberty Zone, or

''(ii) located in the City of New York, New York, outside the New York Liberty Zone, as the result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

''(C) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart E of part IV of subchapter B of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

''(i) section 51(a) shall be applied by substituting 'qualified wages' for 'qualified first-year wages',

''(ii) the rules of section 52 shall apply for purposes of determining the number of employees under subparagraph (A)(iii),

''(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

''(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

''(I) QUALIFIED WAGES.—The term 'qualified wages' means the wages paid or incurred by the employer for work performed during the period beginning on September 11, 2001, and ending on December 31, 2004, to individuals who are New York Liberty Zone business employees of such employer.

''(II) ONLY FIRST $6,000 OF WAGES PER TAXABLE YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $6,000 per taxable year of the employer.

''(b) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified New York Liberty Zone property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection, or

''(III) which is nonresidential real property or residential rental property which is described in subparagraph (B),

''(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and6

''(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

''(B) ELIGIBLE REAL PROPERTY.—Nonresidential real property or residential rental property is described in this subparagraph if it rehabilitates property damaged, or replaces property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing property so destroyed if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes property so destroyed.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified New York Liberty Zone property' shall not include any property to which the alternative depreciation system under section 168(g) applies, determined—

''(I) without regard to paragraph (7) of section 168(g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before the termination date.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(iii), if property—

''(I) is originally placed in service after September 10, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The deduction allowed by this subsection shall be allowed in determining alternative minimum taxable income under section 55.

''(c) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

''(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term 'qualified New York Liberty Bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

''(B) such bond is issued by the State of New York or any political subdivision thereof (or any agency, instrumentality or constituted authority on behalf thereof),

''(C) the Governor of the State of New York or the Mayor of the City of New York, designates such bond for purposes of this section, and

''(D) such bond is issued during calendar year 2002, 2003, or 2004.

''(3) LIMITATIONS ON AMOUNT OF BONDS.—

''(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed $8,000,000,000, of which not to exceed $4,000,000,000 may be designated by the Governor of the State of New York and not to exceed $4,000,000,000 may be designated by the Mayor of the City of New York.

''(B) SPECIFIC LIMITATIONS.—The aggregate face amount of bonds issued which are to be used for—

''(i) costs for property located outside the New York Liberty Zone shall not exceed $2,000,000,000,

''(ii) costs with respect to residential property—

''(I) shall not exceed $1,600,000,000, and

''(II) shall not include, on a project by project basis, per-unit qualified project costs that exceed the maximum per-unit allowable costs within the discretionary authority of the Secretary of Housing and Urban Development under section 221(a)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)), and

''(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed $800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be applied proportionately to the bonds designated under this subsection by the Governor of the State of New York and the Mayor of the City of New York.

''(C) MOVABLE PROPERTY.—No bonds shall be issued which are to be used for movable fixtures and equipment.

''(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified project costs' means the cost of acquisition, construction, reconstruction, rehabilitation, and renovation of—

''(i) nonresidential real property and residential property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

''(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

''(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if—

''(i) such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings, or

''(ii) such property consists of electric generation facilities of not more than 150 mw to provide additional energy capacity in the New York Liberty Zone.

''(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

''(A) Section 146 (relating to volume caps) shall not apply.

''(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting '50 percent' for '15 percent' each place it appears.

''(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

''(D) Repayments of principal on financing provided by the issue—

''(i) may not be used to provide financing, and

''(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

''(E) Section 57(a)(5) shall not apply.

''(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

''(d) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

''(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or functionally related and subordinate to such facilities for the furnishing of water), one additional advanced refunding after December 31, 2001, and before January 1, 2005, shall be allowed under the applicable rules of section 149(d) if the requirements of paragraphs (3) and (4) are met.

''(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

''(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

''(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York City Municipal Water Finance Authority or the Metropolitan Transportation Authority (MTA) of the State of New York, or

''(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of either the State of New York or the City of New York, New York, or political subdivisions, agencies, or instrumentalities thereof.

''(3) APPROVAL; AGGREGATE LIMIT.—Paragraph (1) shall not apply to the advance refunding of any bond—

''(A) unless Governor of the State of New York or the Mayor of the City of New York designates the bond for purposes of this subsection, and

''(B) to the extent the aggregate face amount of the advance refunding bond, when added to the aggregate face amount of advance refunding bonds previously issued under this subsection, exceeds $9,000,000,000.

The limitation under subparagraph (B) shall be applied equally between the bonds designated under subparagraph (A) by the Governor of the State of New York and by the Mayor of the City of New York.

''(4) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met if—

''(A) all advance refundings of a bond described in paragraph (2) allowed under any provision of law other than the advance refunding allowed under paragraph (1) were utilized before September 12, 2001,

''(B) the advance refunding bond allowed under paragraph (1) is the only other outstanding bond with respect to the refunded bond described in paragraph (2), and

''(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(e) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

''(i) $35,000, or

''(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

''(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

''(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection, the term 'qualified New York Liberty Zone property' has the meaning given such term by subsection (b)(2).

''(3) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

''(f) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

''(g) NEW YORK LIBERTY ZONE.—For purposes of this section, the term 'New York Liberty Zone' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.''.

(b) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—

''(A) IN GENERAL.—In the case of the New York Liberty Zone business employee credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Liberty Zone business employee credit).

''(B) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term 'New York Liberty Zone business employee credit' means the portion of work opportunity credit under section 51 determined under section 1400L(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the New York Liberty Zone business employee credit'' after ''employment credit''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after September 11, 2001.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter Y—New York Liberty Zone Benefits.''.

SA 2802. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPANSION OF AVAILABILITY OF ARCHER MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(1) of such Code (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of the annual deductible (as of the first day of such month) of the individual's coverage under the high deductible health plan.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)(C)) is amended to read as follows:

''(4) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.''.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' in clause (i) and inserting ''$1,000''; and

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIAL RULES.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 2000' for 'calendar year 1997'.

''(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(f) PROVIDING INCENTIVES FOR PREFERRED PROVIDER ORGANIZATIONS TO OFFER MEDICAL SAVINGS ACCOUNTS.—Clause (ii) of section 220(c)(2)(B) of such Code is amended by striking ''preventive care if'' and all that follows and inserting ''preventive care.''

(g) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking ''106(b),''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(i) EMERGENCY DESIGNATION.—Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this section below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

SA 2803. Mr. THURMOND submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . TEMPORARY INCREASE IN DEDUCTION FOR CAPITAL LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses for taxpayers other than corporations) is amended by adding at the end the following flush sentence:

''Paragraph (1) shall be applied by substituting '$4,000' for '$3,000' and '$2,000' for '$1,500' in the case of taxable years beginning in 2001, and by substituting '$5,000' for '$3,000' and '$2,500' for '$1,500' in the case of taxable years beginning in 2002.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

SA 2804. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after ''**SECTION**'' and insert the following:

1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''American Family Economic Security and Stimulus Act''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT

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Sec. 301. Short title.
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Sec. 307. Definitions.
Sec. 308. Applicability.
Sec. 309. Special Reed Act transfer in fiscal year 2002.

TITLE IV—NATIONAL EMERGENCY GRANTS

Sec. 401. National emergency grant assistance for workers.

TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS

Sec. 501. Special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004.

TITLE VI—ADDITIONAL PROVISIONS

Sec. 601. Emergency designation.

TITLE I—ADVANCE PAYMENT OF EARNED INCOME CREDIT

SEC. 101. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than February 1, 2002, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. 102. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE II—INDIVIDUAL PROVISIONS

SEC. 201. ACCELERATION OF 25 PERCENT INDIVIDUAL INCOME TAX RATE.

(a) IN GENERAL.—The table contained in paragraph (2) of section 1(i) (relating to reductions in rates after June 30, 2001) is amended—

(1) by striking ''27.0%'' and inserting ''25.0%'', and

(2) by striking ''26.0%'' and inserting ''25.0%''.

(b) REDUCTION NOT TO INCREASE MINIMUM TAX.—

(1) Subparagraph (A) of section 55(d)(1) is amended by striking ''($49,000 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)'' and inserting ''($49,000 in the case of taxable years beginning in 2001, $52,200 in the case of taxable years beginning in 2002 or 2003, and $50,700 in the case of taxable years beginning in 2004)''.

(2) Subparagraph (B) of section 55(d)(1) is amended by striking ''($35,750 in the case of taxable years beginning in 2001, 2002, 2003, and 2004)'' and inserting ''($35,750 in the case of taxable years beginning in 2001, $37,350 in the case of taxable years beginning in 2002 or 2003, and $36,600 in the case of taxable years beginning in 2004)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) SECTION 15 NOT TO APPLY.—No amendment made by this section shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

SEC. 202. TEMPORARY EXPANSION OF PENALTY-FREE RETIREMENT PLAN DISTRIBUTIONS FOR HEALTH INSURANCE PREMIUMS OF UNEMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (D) of section 72(t)(2) is amended by adding at the end the following new clause:

''(iv) SPECIAL RULES FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION AFTER SEPTEMBER 10, 2001, AND BEFORE JANUARY 1, 2003.—In the case of an individual who receives unemployment compensation for 4 consecutive weeks after September 10, 2001, and before January 1, 2003—

''(I) clause (i) shall apply to distributions from all qualified retirement plans (as defined in section 4974(c)), and

''(II) such 4 consecutive weeks shall be substituted for the 12 consecutive weeks referred to in subclause (I) of clause (i).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 203. INCREASE IN CHILD TAX CREDIT.

(a) IN GENERAL.—The table contained in section 24(a)(2) (relating to per child amount) is amended by striking all matter preceding the second item and inserting the following:

''In the case of any taxable year beginning in—	**''The per child amount is—**
2001	$1,000
2002, 2003, or 2004	600''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 204. TEMPORARY INCREASE IN DEDUCTION FOR CAPITAL LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 1211 (relating to limitation on capital losses for taxpayers other than corporations) is amended by adding at the end the following flush sentence:

''Paragraph (1) shall be applied by substituting '$5,000' for '$3,000' and '$2,500' for '$1,500' in the case of taxable years beginning in 2001 or 2002.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

SEC. 205. NONREFUNDABLE CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying students (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary education expenses with respect to such students which are paid or incurred by the taxpayer during such taxable year.

''(b) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of qualified elementary and secondary education expenses paid or incurred during any taxable year which may be taken into account under subsection (a) shall not exceed $500.

''(c) QUALIFYING STUDENT.—For purposes of this section, the term ''qualifying student'' means a dependent of the taxpayer (within the meaning of section 152) who is enrolled in school on a full-time basis.

''(d) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means computer technology or equipment expenses.

''(2) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' has the meaning given such term by section 170(e)(6)(F)(i) and includes Internet access and related services and computer software if such software is predominately educational in nature.

''(e) SCHOOL.—For purposes of this section, the term 'school' means any public, charter, private, religious, or home school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(g) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

''(h) TERMINATION.—This section shall not apply to expenses paid or incurred after the date which is 90 days after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B), as added and amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(2) Section 25(e)(1)(C) is amended by striking ''23 and 1400C'' and by inserting ''23, 25C, and 1400C''.

(3) Section 25(e)(1)(C), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by inserting ''25C,'' after ''25B,''.

(4) Section 25B, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(5) Section 26(a)(1), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(6) Section 1400C(d) is amended by inserting ''and section 25C'' after ''this section''.

(7) Section 1400C(d), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(8) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 26 the following new item:

''Sec. 25C. Credit for elementary and secondary school expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—UNEMPLOYMENT ASSISTANCE

SEC. 301. SHORT TITLE.

This title may be cited as the ''Temporary Extended Unemployment Compensation Act of 2002''.

SEC. 302. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of

the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 303 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

SEC. 303. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) REDUCTION FOR EXTENDED BENEFITS.—The amount in an account under paragraph (1) shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by such individual relating to the same benefit year under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(3) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

SEC. 304. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 305. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 306. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 307. DEFINITIONS.

In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 308. APPLICABILITY.

An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

SEC. 309. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.

(a) REPEAL OF CERTAIN PROVISIONS ADDED BY THE BALANCED BUDGET ACT OF 1997.—

(1) IN GENERAL.—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) SAVINGS PROVISION.—Any amounts transferred before the date of enactment of this Act under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) SPECIAL TRANSFER IN FISCAL YEAR 2002.—Section 903 of the Social Security Act is amended by adding at the end the following:

''Special Transfer in Fiscal Year 2002

''(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

''(A) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

''(i) section 709(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

''(ii) section 5402 of Public Law 105–33 (relating to increase in Federal unemployment account ceiling) had not been enacted,

minus

''(B) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

''(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

''(i) to individuals with respect to their unemployment, and

''(ii) which are allowable under subparagraph (B) or (C).

''(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

''(I) regular compensation, or

''(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

''(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

''(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

''(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

''(iii) The categories of individuals described in this clause include the following:

''(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

''(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

''(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

''(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection).

''(5) Transfers under this subsection shall be made by December 31, 2001, unless this paragraph is not enacted until after that date, in which case such transfers shall be made within 10 days after the date of enactment of this paragraph.''

(c) LIMITATIONS ON TRANSFERS.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting ''the transfer date described in subsection (d)(5)'' for ''October 1 of any fiscal year''.

(2) By substituting ''remain in the Federal unemployment account'' for ''be transferred to the Federal unemployment account as of the beginning of such October 1''.

(3) By substituting ''fiscal year 2002 (after the transfer date described in subsection (d)(5))'' for ''the fiscal year beginning on such October 1''.

(4) By substituting ''under subsection (d)'' for ''as of October 1 of such fiscal year''.

(5) By substituting ''(as of the close of fiscal year 2002)'' for ''(as of the close of such fiscal year)''.

(d) TECHNICAL AMENDMENTS.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting ''or 903(d)(4)'' before ''of the Social Security Act''.

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting ''or 903(d)(4)'' after ''903(c)(2)''.

(e) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

TITLE IV—NATIONAL EMERGENCY GRANTS

SEC. 401. NATIONAL EMERGENCY GRANT ASSISTANCE FOR WORKERS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking ''and'',

(2) in paragraph (3), by striking the period and inserting ''; and'', and

(3) by adding at the end the following new paragraph:

''(4) from funds appropriated under section 174(c), to a State to provide employment and training assistance and the assistance described in subsections (f) and (g) to dislocated workers affected by a plant closure, mass layoff, or multiple layoffs if the Governor certifies in the application for assistance that the attacks of September 11, 2001, contributed importantly to such plant closures, mass layoffs, and multiple layoffs, and to independently owned businesses and proprietorships.''.

(b) USE OF FUNDS.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following new subsections:

''(f) COBRA CONTINUATION COVERAGE PAYMENT REQUIREMENTS.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4) of subsection (a) may be used by the State to assist a participant in the program under such paragraph by paying up to 75 percent of the participant's and any dependents' contribution for COBRA continuation coverage of the participant and dependents for a period not to exceed 10 months.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'COBRA continuation coverage' means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

''(g) GOVERNMENT INTERVENTION SUPPLEMENTS.—

''(1) PERSONAL INCOME.—Using funds made available under subsection (a)(4), a State may provide personal income compensation to a dislocated worker described in such subsection if—

''(A) the worker is unable to work due to direct Federal Government intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

''(i) closure of the facility at which the worker was employed, prior to the intervention; or

''(ii) a restriction on how business may be conducted at the facility; and

''(B) the facility is located within an area in a State in which a major disaster or emergency was certified by the Governor.

''(2) BUSINESS INCOME.—Using funds made available under subsection (a)(4), a State may provide business income compensation to an independently owned business or proprietorship if—

''(A) the business or proprietorship is unable to earn revenue due to direct Federal intervention, as a result of a direct response to the terrorist attacks which occurred on September 11, 2001, leading to—

''(i) closure of the facility at which the business or proprietorship was located, prior to the intervention; or

''(ii) a restriction on how customers may access the facility; and

''(B) the facility is located within an area in a State in which a major disaster or emergency was certified by the Governor.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following new subsection:

''(c) NATIONAL EMERGENCY GRANTS RELATING TO SEPTEMBER 11 ATTACKS.—There are authorized to be appropriated to carry out subsection (a)(4) of section 173 $5,000,000,000 for fiscal year 2002. Funds appropriated under this subsection shall be available for obligation for a period beginning with the date of enactment of such appropriations and ending 18 months thereafter.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section.

TITLE V—TEMPORARY BUSINESS RELIEF PROVISIONS

SEC. 501. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after December 31, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

''(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

''(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

''(i) IN GENERAL.—The term 'qualified property' includes property—

''(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) which has a recovery period of at least 10 years or is transportation property, and

''(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

''(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after December 31, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) of the Internal Revenue Code of 1986 (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

TITLE VI—ADDITIONAL PROVISIONS

SEC. 602. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

SA 2805. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of title V of the amendment, add the following:

SEC. ___. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than February 1, 2002, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. ___. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2806. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VI—REFUNDABLE HEALTH INSURANCE COSTS CREDIT

SEC. 601. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable personal credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following:

''SEC. 35. HEALTH INSURANCE COSTS.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

''(b) LIMITATIONS.—

''(1) MAXIMUM DOLLAR AMOUNT.—

''(A) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year.

''(B) MONTHLY LIMITATION.—The monthly limitation for each coverage month during the taxable year is an amount equal to 75 percent of the amount paid for qualified health insurance for such month.

''(2) 12-MONTH LIMITATION.—For purposes of paragraph (1), the total number of coverage months taken into account with respect to each qualifying event of the individual shall not exceed the lesser of—

''(A) the total number of consecutive coverage months starting with the first coverage month with respect to the event, or

''(B) 12.

''(c) DEFINITIONS.—For purposes of this section—

''(1) COVERAGE MONTH.—

''(A) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

''(i) as of the first day of such month such individual is covered by qualified health insurance, and

''(ii) the premium for coverage under such insurance, or any portion of the premium, for such month is paid by the taxpayer.

''(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(2) ELIGIBLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'eligible individual' means an individual who is—

''(i) a covered employee (as defined in section 4980B(f)) of the plan sponsor of the qualified health insurance, and

''(ii) eligible for continuation coverage by reason of a qualifying event which occurs after September 11, 2001.

''(B) DEPENDENTS OF TERRORIST VICTIMS.—The term 'eligible individual' shall include the spouse, child, or other individual who—

''(i) was an insured under health insurance coverage of an individual who was killed as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during the period beginning on September 11, 2001, and ending on December 31, 2002, and

''(ii) is eligible for continuation coverage by reason of the death of such individual.

''(C) CERTAIN COVERAGE TREATED AS CONTINUATION COVERAGE.—If an individual during the period beginning on September 11, 2001, and ending on December 31, 2002—

''(i) elects to take a voluntary leave program offered by such individual's employer after the employer has announced that employee separations will occur as a result of the terrorist-related aircraft crashes on September 11, 2001, or as a result of any other terrorist-related event occurring during such period; and

''(ii) is eligible under such voluntary leave program, and has elected, to continue their health insurance coverage under a group health plan through payment of 100 percent of the premium for such coverage,

then, for purposes of this section, such individual shall be treated as an eligible individual and such coverage shall be treated as qualified health insurance.

''(3) QUALIFIED HEALTH INSURANCE.—The term 'qualified health insurance' means health insurance coverage under—

''(A) a COBRA continuation provision (as defined in section 9832(d)(1)), or

''(B) section 8905a of title 5, United States Code.

Such term includes such continuation coverage provided in a State that has enacted a law that requires such coverage even though the coverage would not otherwise be required under the provisions of law referred to in subparagraph (A).

''(4) QUALIFYING EVENT.—The term 'qualifying event' means an event described in section 4980B(f)(3)(B), except that such term shall not include a voluntary termination.

''(d) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(2) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 32(g) shall apply to any credit to which this section applies.

''(e) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

''(g) TERMINATION.—This section shall not apply to any amount paid after December 31, 2002.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following:

''SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

''(C) the aggregate amount of payments described in subsection (a),

''(D) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in subparagraph (A), and

''(E) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 35(c)).

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished,

''(3) the information required under subsection (b)(2)(B) with respect to such payments, and

''(4) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in paragraph (2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following:

''(xi) section 6050T (relating to returns relating to payments for qualified health insurance),''.

(B) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following:

''(BB) section 6050T(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050S the following:

''Sec. 6050T. Returns relating to payments for qualified health insurance.''.

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 (relating to other offenses) is amended by adding at the end the following:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 35 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) is amended by adding at the end the following:

''(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 35 of such Code''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the last item and inserting the following:

''Sec. 35. Health insurance costs.

''Sec. 36. Overpayments of tax.''.

(4) The table of sections for subchapter B of chapter 75 is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to health insurance tax credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 602. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following:

''SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

''(a) GENERAL RULE.—Every plan sponsor of a group health plan providing, or qualified health insurance issuer of, qualified health insurance to an eligible individual shall—

''(1) make qualified premium payments with respect to such individual in an amount equal to the qualified health insurance credit advance amount, and

''(2) treat such payments in the manner provided in subsection (g).

''(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual—

''(1) who purchases qualified health insurance (as defined in section 35(c)), and

''(2) for whom a qualified health insurance credit eligibility certificate is in effect.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED HEALTH INSURANCE ISSUER.—The term 'qualified health insurance issuer' means a health insurance issuer described in section 9832(b)(2) (determined without regard to the last sentence thereof) offering coverage in connection with a group health plan.

''(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 5000(b)(1) (determined without regard to subsection (d) thereof).

''(3) QUALIFIED PREMIUM PAYMENTS.—The term 'qualified premium payments' means any amount paid or incurred, cost incurred, or health coverage value provided, with respect to qualified health insurance for an eligible individual and the individual's spouse and dependents. For purposes of the preceding sentence, in the case of a group health plan, the health coverage value is equal to the applicable premium under the plan for the qualified health insurance coverage provided to an eligible individual and the individual's spouse and dependents, as determined under section 4980B.

''(d) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to a plan sponsor of a group health plan or qualified health insurance issuer which—

''(1) certifies that the individual will be eligible to receive the credit provided by section 35 for the taxable year,

''(2) estimates the amount of such credit for such taxable year, and

''(3) provides such other information as the Secretary may require for purposes of this section.

''(e) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any plan sponsor of a group health plan providing, or qualified health insurance issuer of, qualified health insurance, the amount of credit allowable under section 35 to the individual for the taxable year which is attributable to the insurance provided to the individual by such sponsor or issuer.

''(f) REQUIRED DOCUMENTATION FOR RECEIPT OF PAYMENTS OF ADVANCE AMOUNT.—No payment of a qualified health insurance credit advance amount with respect to any eligible individual may be made under subsection (a) unless the plan sponsor of the group health plan or qualified health insurance issuer provides to the Secretary—

''(1) the qualified health insurance credit eligibility certificate of such individual, and

''(2) the return relating to such individual under section 6050T.

''(g) QUALIFIED PREMIUM PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AMOUNTS AND CERTAIN EMPLOYER TAX.—

''(1) IN GENERAL.—For purposes of this title, qualified premium payments made or costs incurred by the sponsor of a group health plan, or any entity designated by the sponsor to make such payments or incur such costs—

''(A) shall not be treated as compensation, and

''(B) shall be treated, in such manner as provided by the Secretary, as made out of—

''(i) amounts required to be deposited by the taxpayer as estimated income tax under section 6654 or 6655,

''(ii) amounts required to be deducted and withheld under section 3401 (relating to wage withholding),

''(iii) amounts of the taxes imposed under section 3111(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employer taxes), or

''(iv) amounts required to be deducted under section 3102 with respect to taxes imposed under section 3101(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employee taxes),

as if such sponsor, or such designated entity, had paid to the Secretary an amount equal to such payments.

''(2) QUALIFIED PREMIUM PAYMENTS EXCEED TAXES DUE.—In the case of any entity, if for any time period the aggregate qualified premium payments exceed the amounts described in paragraph (1)(B), the Secretary shall reduce amounts described in such paragraph for any succeeding time period as necessary to reflect such excess.

''(3) FAILURE TO MAKE QUALIFIED PREMIUM PAYMENTS.—For purposes of this title (including penalties), failure to make a qualified premium payment with respect to an eligible individual at the time provided therefor shall be treated as the failure at such time to deduct and withhold under chapter 24 of such Code in an amount equal to the amount of such qualified premium payments.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following:

''Sec. 7527. Advance payment of health insurance credit for purchasers of qualified health insurance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 603. COBRA NOTIFICATION REQUIREMENTS.

(a) CHANGE IN COBRA NOTICE.—

(1) GENERAL NOTICE.—For purposes of this section—

(A) IN GENERAL.—Any notice required to be provided under section 4980B(f)(6) of the Internal Revenue Code of 1986, section 2206 of the Public Health Service Act (42 U.S.C. 300bb–6), section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166), or section 8905a(f)(2)(A) of title 5,

United States Code, with respect to an eligible individual shall include an additional notification to the recipient of the availability of qualified premium payments for such coverage under section 7527 of the Internal Revenue Code of 1986.

(B) ALTERNATIVE NOTICE.—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall, in coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, assure the provision of such notice.

(C) FORM.—The requirement of the additional notification under this paragraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(2) SPECIFIC REQUIREMENTS.—Each additional notification under paragraph (1) shall include the following:

(A) The forms necessary for establishing eligibility for, and making a designation to request, qualified premium payments under section 7527 of the Internal Revenue Code of 1986.

(B) The following displayed in a prominent manner:

(i) The name, address, and telephone number necessary to contact the employer, administrator, and any other person maintaining relevant information in connection with how to request such qualified premium payments.

(ii) The toll-free telephone number and Internet website address established under paragraph (4)(A)(i).

(iii) The name, address, and telephone number for the group health plan (including a multiemployer plan), issuer of health insurance coverage, administrator, an employer, or other entity (as appropriate with respect to the individual) that will collect the monthly premium for such coverage, specifying that the forms described in subparagraph (A) are to be completed by the individual and sent to such entity.

(iv) The following statement:

''You may be eligible to receive qualified premium payments for payment of 75 percent of your COBRA continuation coverage premiums and with temporary medicaid coverage for the remaining premium portion for a duration of not to exceed 12 months. This assistance will not be available after December 31, 2002. Return the enclosed forms as soon as possible to the address specified.''.

(C) The dollar amount equal to 25 percent of the monthly 2002 premium that would be owed during 2002 by the individual for the coverage if the individual is eligible for, and requests, qualified premium payments.

(3) SUPPLEMENTAL NOTICE FOR INDIVIDUALS PREVIOUSLY PROVIDED NOTICE OR WHOSE ELECTION PERIOD IS TEMPORARILY EXTENDED.—In the case of notices described in paragraph (1) which were transmitted before the date of enactment of this Act to an eligible individual who has elected (or is still eligible to elect, including as a result of section 604) COBRA continuation coverage as of the date of enactment of this Act, the employer, administrator, or other entity involved, or the Secretary of the Treasury, in consultation with the Secretary of Labor (in the case described in the paragraph (1)(B)), shall provide (within the period required under paragraph (4)(B)(i)) for the additional notification required to be provided under this subsection.

(4) REQUIRED TIMELINE.—

(A) IN GENERAL.—Not later than 15 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(i) establish a toll-free telephone number and an Internet website to provide information and answer inquiries about the qualified premium payments available under section 7527 of the Internal Revenue Code of 1986;

(ii) prescribe models for the additional notification required under this subsection and the forms necessary for establishing eligibility, and requesting, such qualified premium payments;

(iii) notify each covered employer, plan sponsors of a group health plan providing qualified health insurance, and qualified health insurance issuers of qualified health insurance of such qualified premium payments, and notify each covered employer of the additional notification required under this subsection;

(iv) make the model notification and forms under clause (ii) available to each such covered employer; and

(v) provide, in consultation with the Secretary of Labor, the additional notification required for individuals described in paragraph (1)(B).

(B) COVERED EMPLOYERS.—Not later than 15 days after the model notification and forms are made available under subparagraph (A)(iv), each covered employer or their designee shall—

(i) provide the additional notification required under this subsection; and

(ii) be able to comply with such additional notification requirement in the case of any individual described in paragraph (1)(A).

(C) DEFINITION OF COVERED EMPLOYER.—For purposes of this section, the term ''covered employer'' means, for any calendar year, any person on whom an excise tax is imposed under section 3111 or 1401 of the Internal Revenue Code of 1986 with respect to having an individual in the person's employ to whom wages are paid by such person during such calendar year.

(5) ELIGIBLE INDIVIDUAL.—For purposes of this subsection, the term ''eligible individual'' has the meaning given such term by section 35(c)(2) of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—This section shall not apply with respect to qualified premium payments made after December 31, 2002.

SEC. 604. TEMPORARY EXTENSION OF ELECTION PERIOD FOR CERTAIN SEPARATED INDIVIDUALS.

(a) TEMPORARY EXTENSION OF ELECTION PERIOD FOR CERTAIN SEPARATED INDIVIDUALS.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage with respect to any eligible individual (as defined in section 35(c)(2) of the Internal Revenue Code of 1986) for whom such period has expired as of the date of enactment of this Act, shall not end before the date that is 60 days after the date the individual receives the supplemental notice required under section 603(a)(3).

(b) PREEXISTING CONDITIONS.—If an individual is entitled to a supplemental notice under section 603(a)(3), any period before the receipt of such notice shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

SA 2807. Mr. SESSIONS (for Mr. KYL (for himself, Mr. NICKLES, and Mr. SESSIONS)) proposed an amendment to amendment SA 2721 submitted by Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

SEC. . PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking ''this Act'' and all that follows through 2010.'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) by striking, '', estates, gifts, and transfers'' in subsection (b).

SA 2808. Mr. DORGAN (for himself, Mr. REID, Mr. INOUYE, and Mr. CONRAD) proposed an amendment to amendment SA 2764 submitted Mr. REID and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

TITLE _____—TRAVEL INDUSTRY STABILIZATION

SECTION __01. SHORT TITLE.

This title may be cited as the ''American Travel Industry Stabilization Act''.

SEC. __02. TRAVEL INDUSTRY DISASTER RELIEF.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the actions described in subsection (b) to compensate eligible travel-related businesses.

(b) ACTIONS DESCRIBED.—

(1) IN GENERAL.—Subject to such terms and conditions as the President deems necessary, and upon application, the President is authorized to issue Federal credit instruments to eligible travel-related businesses described in subsection (c) that do not, in the aggregate, exceed $2,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) TIME FOR APPLICATION.—An application for a Federal credit instrument shall be filed by an eligible travel-related business not later than 1 year after the promulgation of regulations.

(3) TERMS OF CREDIT INSTRUMENTS.—A loan guaranteed under this title may be used exclusively for the purpose of meeting obligations and expenses to the extent that an applicant demonstrates—

(A) business operations were directly and adversely affected by the events of September 11, 2001;

(B) the loan guarantee is necessary to meet such obligations;

(C) the inability of the applicant to meet such obligations or expenses is directly attributable to the impact of September 11, 2001; and

(D) the applicant has the ability to repay the loan.

(c) DEFINITIONS.—In this title:

(1) BOARD.—The term ''Board'' means the Air Transportation Stabilization Board established under the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note; P.L. 107–42).

(2) ELIGIBLE TRAVEL-RELATED BUSINESS.—The term ''eligible travel-related business'' means a business that was injured by the Government shutdown of the airline industry following the terrorist attacks on the United States that occurred on September 11, 2001, and that on such date—

(A) had a contractual arrangement with an air carrier to provide goods or services, including those with a contractual relationship with the Airline Reporting Corporation; or

(B) was a nonaeronautical for-profit business operating at an airport engaged in the sale of consumer goods or services to the public under an arrangement with the airport or the airport's governing body.

(3) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means any guarantee or other pledge by the Board issued under section __02(b) to pledge the full faith and credit of the United States to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(4) FINANCIAL OBLIGATION.—The term ''financial obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section __02(b).

(5) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulatory) known as rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(6) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of, or interest on, a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(d) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. __03. ADDITIONAL FUNCTIONS FOR THE AIRLINE STABILIZATION BOARD.

(a) ADDITIONAL FUNCTIONS TO STABILIZE THE TRAVEL INDUSTRY.—The Board shall review and make recommendations to the President with respect to applications for Federal credit instruments submitted under section __02(b).

(b) FEDERAL CREDIT INSTRUMENTS.—

(1) IN GENERAL.—The Board may enter into agreements with 1 or more obligors to issue Federal credit instruments under section __02(b) if the Board determines, in its discretion, that—

(A) the obligor is an entity in a travel-related business for which credit is not reasonably available at the time of the transaction;

(B) the intended obligation by the obligor is prudently incurred; and

(C) such agreement is a necessary part of maintaining a safe, efficient, and viable travel industry in the United States.

(2) TERMS AND LIMITATIONS.—

(A) FORMS, TERMS, AND CONDITIONS.—A Federal credit instrument shall be issued under section __02(b) in such form and such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Board determines appropriate, provided that—

(i) a loan shall be repaid over a period not to exceed 5 years from the date that the loan is guaranteed under this title;

(ii) the Government guarantee shall cover not less than 80 percent of the value of the loan;

(iii) loan guarantees under this title shall be extended based upon the ability of the eligible travel-related business to repay the loan without regard to collateral; and

(iv) any loan origination fee may not exceed 1 percent of the loan value.

(B) PROCEDURES.—Not later than 14 days after the date of enactment of this title, the Director of the Office of Management and Budget, in consultation with the Board, shall issue regulations setting forth procedures for application and minimum requirements.

(c) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent feasible and practicable, as provided in paragraphs (2) and (3), the Board shall ensure that the Government is compensated for the risk assumed in making guarantees under this title.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any participating corporation accepts financial assistance, in the form of accepting the proceeds of any loans guaranteed by the Government under this title, the Board is authorized to enter into contracts under which the Government, contingent on the financial success of the participating corporation, would participate in the gains of the participating corporation or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this subsection shall be deposited in the Treasury as miscellaneous receipts.

(e) AUTHORIZATION OF FUNDS.—Congress authorizes and hereby appropriates such sums as are necessary to carry out the purposes of this title.

SA 2809. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of subtitle A of title VI of the amendment, add the following:

SEC. ___. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than February 1, 2002, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. ___. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2810. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2773 submitted by Mr. GRASSLEY and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VI of the amendment, add the following:

SEC. ___. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than February 1, 2002, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. ___. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. ___. TEMPORARY EXPANSION OF PENALTY-FREE RETIREMENT PLAN DISTRIBUTIONS FOR HEALTH INSURANCE PREMIUMS OF UNEMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (D) of section 72(t)(2) is amended by adding at the end the following new clause:

''(iv) SPECIAL RULES FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION AFTER SEPTEMBER 10, 2001, AND BEFORE JANUARY 1, 2003.—In the case of an individual who receives unemployment compensation for 4 consecutive weeks after September 10, 2001, and before January 1, 2003—

''(I) clause (i) shall apply to distributions from all qualified retirement plans (as defined in section 4974(c)), and

''(II) such 4 consecutive weeks shall be substituted for the 12 consecutive weeks referred to in subclause (I) of clause (i).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this division.

SEC. ___. INCREASE IN CHILD TAX CREDIT.

(a) IN GENERAL.—The table contained in section 24(a)(2) (relating to per child amount) is amended by striking all matter preceding the second item and inserting the following:

''In the case of any taxable year beginning in—	**''The per child amount is—**
2001	$1,000
2002, 2003, or 2004	600''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. ___. TEMPORARY INCREASE IN DEDUCTION FOR CAPITAL LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 1211 (relating to limitation on capital losses for taxpayers other than corporations) is amended by adding at the end the following flush sentence:

''Paragraph (1) shall be applied by substituting '$5,000' for '$3,000' and '$2,500' for '$1,500' in the case of taxable years beginning in 2001 or 2002.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

SEC. ___. NONREFUNDABLE CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. CREDIT FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying students (as defined in subsection (b)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified elementary and secondary education expenses with respect to such students which are paid or incurred by the taxpayer during such taxable year.

''(b) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of qualified elementary and secondary education expenses paid or incurred during any taxable year which may be taken into account under subsection (a) shall not exceed $500.

''(c) QUALIFYING STUDENT.—For purposes of this section, the term ''qualifying student'' means a dependent of the taxpayer (within the meaning of section 152) who is enrolled in school on a full-time basis.

''(d) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means computer technology or equipment expenses.

''(2) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' has the meaning given such term by section 170(e)(6)(F)(i) and includes Internet access and related services and computer software if such software is predominately educational in nature.

''(e) SCHOOL.—For purposes of this section, the term 'school' means any public, charter, private, religious, or home school which provides elementary education or secondary education (through grade 12), as determined under State law.

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any contribution for which credit is allowed under this section.

''(g) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

''(h) TERMINATION.—This section shall not apply to expenses paid or incurred after the date which is 90 days after the date of the enactment of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B), as added and amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(2) Section 25(e)(1)(C) is amended by striking ''23 and 1400C'' and by inserting ''23, 25C, and 1400C''.

(3) Section 25(e)(1)(C), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by inserting ''25C,'' after ''25B,''.

(4) Section 25B, as added by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(5) Section 26(a)(1), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(6) Section 1400C(d) is amended by inserting ''and section 25C'' after ''this section''.

(7) Section 1400C(d), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(8) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 26 the following new item:

''Sec. 25C. Credit for elementary and secondary school expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this division.

SA 2811. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2700 submitted by Mr. MCCAIN and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (b) of the amendment and insert the following:

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SA 2812. Mr. NICKLES (for Mr. MCCAIN (for himself, Mr. ALLARD, Mr. LIEBERMAN, Ms. SNOWE, Mr. LEVIN, Mr. MURKOWSKI, Mr. CLELAND, Mr. INHOFE, Ms. LANDRIEU, Mr. BURNS, Mr. DURBIN, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. SHELBY, Mr. HAGEL, Mr. LUGAR, Mr. KENNEDY, Mr. WARNER, Ms. COLLINS, Mr. HATCH, Mr. HELMS, Mr. ALLEN, Mr. KERRY, Mr. FITZGERALD, Mr. STEVENS, Mr. REID, Mr. MILLER, Mr. ROBERTS, Mr. BAYH, Mr. ENSIGN, Mr. BUNNING, Mr. CAMPBELL, Mr. NELSON of Nebraska, Mr. DODD, Mr. JEFFORDS, Mr. BROWNBACK, Mr. BIDEN, Ms. STABENOW, Mr. COCHRAN, and Mr. SARBANES)) submitted an amendment intended to be proposed to amendment SA 2790 submitted by Mr. NICKLES and intended to be proposed to the amendment SA 2698 proposed by Mr. DASCHLE to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (b) of the amendment and insert the following:

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SA 2813. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) IN GENERAL.—Section 514(c)(6) of the Internal Revenue Code of 1986 (relating to acquisition indebtedness) is amended—

(1) by striking ''include an obligation'' and inserting ''include—

''(A) an obligation'',

(2) by striking the period at the end and inserting '', or'', and

(3) by adding at the end the following:

''(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(i) issued by such company under section 303(a) of such Act, or

''(ii) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to acquisitions made on or after the date of the enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will conduct a Nomination hearing on February 13, 2002, in SH–216 at 9:30 a.m. The purpose of this hearing will be to consider the following nominations: Thomas Dorr the nominee for Under Secretary of Rural Development; Nancy Bryson, the administrations nominee to serve as general counsel for USDA; and Grace Daniel and Fred Dailey who are nominated to serve on the board of Federal Agricultural Mortgage Corporation.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an additional bill has been added to the hearing agenda for the hearing that was previously scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources on Thursday, February 14, 2002, beginning at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The additional measure to be considered is S. 1894, to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the sustainability and feasibility of its inclusion in the National Park System as part of Biscayne National Park.

For further information, please contact Shelley Brown of the committee staff at (202–224–5915).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for fiscal year 2003 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 4:30 p.m. in executive session to meet with members of the Canadian Senate Committee on National Security and Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 9:30 a.m., to conduct the first in a series of hearings on ''The State of Financial Literacy and Education in America.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., on pending committee business

Executive Session Agenda

1. To authorize the issuance of a subpoena to compel testimony from Mr. Kenneth L. Lay, former Chairman and Chief Executive Officer and current board member of the Enron Corporation (Kevin Kayes, Jeanne Bumpus).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 2:30 p.m., on implementation of the Aviation and Transportation Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate Committee on Finance be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 2:30 p.m., to hear testimony on the President's fiscal year 2003 budget and tax proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 5, 2002, at 10:15 a.m., to hold a hearing entitled, ''Foreign Policy Overview and the President's Fiscal Year 2003 Foreign Affairs Budget Request.''

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., to hold a hearing entitled, ''Retirement Insecurity: 401(k) Crisis at Enron.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DORGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Human Cloning: Must We Sacrifice Medical Research in the Name of a Total Ban?'' on Tuesday, February 5, 2002, at 2 p.m., in Dirksen room 226.

Witness List

Panel I: The Honorable Dave Weldon and the Honorable James C. Greenwood

Panel II: Dr. Irving L. Weissman, Chair, Panel on Scientific and Medical Aspects of Human Cloning, the National Academy of Sciences and Professor, Stanford University School of Medicine, Stanford, CA; Professor Henry T. Greely, Stanford University Law School, Stanford, CA; Professor R. Alta Charo, University of Wisconsin Law School, Madison, WI; Kris Gulden, Coalition for the Advancement of Medical Research, Washington, DC; Andrew Kimbrell, Executive Director, International Center for Technology Assessment, Washington, DC; and Father Kevin T. FitzGerald, Georgetown University Medical Center, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DORGAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 5, 2002, at 9:30 a.m., on Fighting Bioterrorism: Using America's Scientists and Entrepreneurs to find Solutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—S. 180

Mr. REID. Madam President, I ask unanimous consent the Chair lay before the Senate a message from the House on S. 180; that the Senate disagree to the House amendment, agree to the request for conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR WEDNESDAY, FEBRUARY 6, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m., Wednesday, February 6; that following the prayer and pledge the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; further, at 11:30 a.m., the Senate resume consideration of H.R. 622 and vote on cloture on the Daschle substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, the next rollcall vote will occur tomorrow morning at 11:30 a.m. on cloture on the Daschle economic recovery amendment. Additional rollcall votes are expected throughout the day tomorrow.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:26 p.m., adjourned until Wednesday, February 6, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 5, 2002:

DEPARTMENT OF ENERGY

GUY F. CARUSO, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION, VICE JAY E. HAKES, RESIGNED.

INTER-AMERICAN FOUNDATION

JOSE A. FOURQUET, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2004, VICE MARK L. SCHNEIDER, TERM EXPIRED.

ADOLFO A. FRANCO, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 20, 2002, VICE JEFFREY DAVIDOW, RESIGNED.

ADOLFO A. FRANCO, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2008. (REAPPOINTMENT)

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006, VICE HARRIET C. BABBITT, TERM EXPIRED.

DEPARTMENT OF LABOR

EUGENE SCALIA, OF VIRGINIA, TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR, VICE HENRY L. SOLANO, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM DECEMBER 20, 2001, TO JANUARY 23, 2002.

DEPARTMENT OF VETERANS AFFAIRS

DANIEL L. COOPER, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS, VICE JOSEPH THOMPSON, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 44:

To be admiral

VICE ADM. THOMAS H. COLLINS, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5582:

To be lieutenant

GREGORY W. KIRWAN, 0000

To be lieutenant junior grade

ARSENIO S. FRANCISCO, 0000
JOHN E. GAY, 0000

To be ensign

MATTHEW M. SCOTT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant

MICHAEL J. ADAMS, 0000
MATTHEW L. BERAN, 0000
JAMES H. BURNS, 0000
JOSEPH F. CARILLI JR., 0000
TRACY L. CLARK, 0000
KEVIN W. MESSER, 0000
ROBERT P. MONAHAN, 0000
NELL A. OSGOOD, 0000
SCOTT A. SUOZZI, 0000

CONFIRMATION

Executive nomination confirmed by the Senate February 5, 2002:

THE JUDICIARY

PHILIP R. MARTINEZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.